

Irrigation and M&I  
Contract No. 14-06-200-495A-IR1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
AND  
WESTLANDS WATER DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE  
SAN LUIS UNIT AND DELTA DIVISION

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2 DEPARTMENT OF THE INTERIOR  
3 BUREAU OF RECLAMATION  
4 Central Valley Project, California

5 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
6 AND WESTLANDS WATER DISTRICT  
7 PROVIDING FOR PROJECT WATER SERVICE FROM  
8 SAN LUIS UNIT AND DELTA DIVISION

9 THIS CONTRACT, made this 27 day of December, 200~~8~~<sup>7</sup>, in pursuance generally *SDB*  
10 of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including,  
11 but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August  
12 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 3, 1960  
13 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986  
14 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all  
15 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF  
16 AMERICA, hereinafter referred to as the United States, and the WESTLANDS WATER DISTRICT,  
17 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,  
18 existing, and acting pursuant to the laws thereof;

19 WITNESSETH, That:

20 EXPLANATORY RECITALS

21 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the California Central  
22 Valley Project (Project), for diversion, storage, carriage, distribution and beneficial use, for flood  
control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and

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24 restoration, generation and distribution of electric energy, salinity control, navigation and other  
25 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the  
26 San Joaquin River and their tributaries; and

27 [2<sup>nd</sup>] WHEREAS, the United States constructed the Delta Division Facilities, including the  
28 San Luis Unit facilities (which include the San Luis Canal, the Coalinga Canal, the Pleasant Valley  
29 Pumping Plant, and the Dos Amigos Pumping Plant), which will be used in part for the furnishing of  
30 water to the Contractor pursuant to the terms of this Contract; and

31 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States pursuant to  
32 California law for operation of the Project; and

33 [4<sup>th</sup>] WHEREAS, the terms and conditions pursuant to which Project Water is to be  
34 delivered to the Contractor through December 31, 2007, are addressed in the Contract Between the  
35 United States and Westlands Water District Providing for Water Service, dated June 5, 1963, and the  
36 Stipulated Judgment in the lawsuit entitled Barcellos and Wolfsen, Inc., v. Westlands Water District,  
37 Civ. No. F-79-106-EDP (E.D. Cal.), as consolidated with Westlands Water District v. United States  
38 of America, Civ. No. F-81-245-EDP (E.D. Cal.), entered on December 30, 1986, hereinafter referred  
39 to as the Existing Contract; and

40 [5<sup>th</sup>] WHEREAS, the United States and the Contractor have pursuant to  
41 Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered  
42 into binding agreements identified as Binding Agreement No. 14-06-200-495A-BA, and Binding  
43 Agreement No. CV 79-106-EDP-BA, which sets out the terms pursuant to which the Contractor

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44 agreed to renew the Existing Contract before the expiration date after completion of the  
45 Programmatic Environmental Impact Statement (PEIS) and other appropriate environmental  
46 documentation and negotiation of a renewal contract; and which also sets out the consequences of a  
47 subsequent decision not to renew; and

48 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the  
49 Existing Contract following completion of appropriate environmental documentation, including the  
50 PEIS, which was required by Section 3409 of the CVPIA, pursuant to the National Environmental  
51 Policy Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the  
52 CVPIA and the potential renewal of all existing contracts for Project Water; and

53 [7<sup>th</sup>] WHEREAS, rights of renewal of Existing Contract and to convert said contract to a  
54 contract as provided by subsection (d), Section 9 of the Act of August 4, 1939 (53 Stat. 1187), are set  
55 forth in said contract; and

56 [8<sup>th</sup>] WHEREAS, the United States has completed the PEIS, but since all the environmental  
57 documentation necessary to execute a long-term renewal contract has not been completed, the  
58 Contractor has requested an interim renewal contract pursuant to Section 3404(c)(1) of the CVPIA;  
59 and

60 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
61 its obligations under the Existing Contract; and

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62 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
63 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
64 beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project  
65 Water to be made available to it pursuant to this Contract; and

66 [11<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
67 agricultural areas within California for more than 50 years, and is considered by the Contractor as an  
68 essential portion of its water supply; and

69 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the Contractor's,  
70 depend upon the continued availability of water, including water service from the Project; and

71 [12.1] WHEREAS, the United States Court of Appeals for the Ninth Circuit has held that  
72 Section 1(a) of the San Luis Act, Public Law (P.L.) 86-488 (74 Stat. 156) imposes on the Secretary of  
73 the Interior (Secretary) a duty to provide drainage service to the San Luis Unit; and

74 [12.2] WHEREAS, the Contractor and the Contracting Officer recognize that adequate  
75 drainage service is required to maintain agricultural production within certain areas served with  
76 Project Water made available under this Contract, and all renewals thereof; and

77 [12.3] WHEREAS, the Contracting Officer intends, to the extent appropriated funds are  
78 available, to develop and implement effective solutions to drainage problems in the San Luis Unit; and

79 [12.4] WHEREAS, the Contracting Officer and the Contractor acknowledge that such  
80 drainage solutions may involve actions not originally contemplated and/or the construction or use of  
81 facilities, other than the San Luis Drain; that the Contractor is investing in drainage solutions for

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82 lands within its boundaries that should be considered by the Contracting Officer in determining  
83 drainage solutions; and that the existing ratesetting policy as it relates to the allocation and collection  
84 of drainage costs may require amendment to recognize those investments by the Contractor and other  
85 relevant circumstances; and

86 [12.5] WHEREAS, the Department of the Interior (Interior), Bureau of Reclamation published  
87 in June 2006 the San Luis Drainage Feature Re-evaluation Final Environmental Impact Statement,  
88 which considers alternatives to provide agricultural drainage service to the San Luis Unit; and

89 [12.6] WHEREAS, on March 9, 2007, the Record of Decision was signed for the San Luis  
90 Drainage Feature Re-evaluation Final Environmental Impact Statement identifying the retirement of  
up to 194,000 acres of land from irrigated agricultural productions as the selected alternative; and

92 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships  
93 to pursue measures to improve water supply, water quality, and reliability of the Project for all Project  
94 purposes; and

95 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
96 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of  
97 the Project as required by law; to guard reasonably against Project Water shortages; to achieve a  
98 reasonable balance among competing demands for use of Project Water; and to comply with all  
99 applicable environmental statutes, all consistent with the legal obligations of the United States  
100 relative to the Project; and

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101 [14.1] WHEREAS, the parties intend by this Contract to develop a more cooperative  
102 relationship in order to achieve their mutual goals; and

103 [15<sup>th</sup>] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,  
104 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to  
105 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

106 [15.1] WHEREAS, the parties desire and intend that this Contract not provide a disincentive  
107 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital  
108 immediately above; and

109 [15.2] WHEREAS, in order to continue water service provided under Project water service  
110 contracts that expire prior to the completion of the PEIS, the United States intends to execute interim  
111 renewal contracts for a period not to exceed three (3) Years in length, and for successive interim  
112 periods of not more than two (2) Years in length, until appropriate environmental documentation,  
113 including the PEIS, is finally completed, at which time the Secretary shall, pursuant to Federal  
114 Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period  
115 of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive  
116 periods not to exceed twenty-five (25) Years each; and

117 [15.3] WHEREAS, the Secretary intends to assure uninterrupted water service and continuity  
118 of contract through the process set forth in Article 2 hereof; and

119 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
120 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;



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121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible  
125 with the intent of the parties as expressed in this Contract, the term:

126 (a) "Calendar Year" shall mean the period January 1 through December 31, both dates  
127 inclusive;

128 (b) "Charges" shall mean the payments required by Federal Reclamation law in  
129 addition to the Rates as determined annually by the Contracting Officer pursuant to this Contract;

(c) "Condition of Shortage" shall mean a condition respecting the Project during  
131 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract;

132 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized  
133 representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

134 (e) "Contract Total" shall mean the maximum amount of water to which the  
135 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

136 (f) "Contractor's Service Area" shall mean the area to which the Contractor is  
137 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,  
138 which may be modified from time to time in accordance with Article 35 of this Contract without  
139 amendment of this Contract;

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140 (g) "CVPIA" shall mean the Central Valley Project Improvement Act,  
141 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

142 (g) (1)) "Delta Division Facilities" shall mean those existing and future Project  
143 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the  
144 C.W. "Bill" Jones Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and  
145 the San Luis Reservoir, used to divert, store, and convey water to those Project Contractors entitled to  
146 receive water conveyed through the Delta-Mendota Canal;

147 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be  
148 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
149 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

150 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in  
151 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
152 Reclamation law;

153 (j) Omitted.

154 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be  
155 delivered in accordance with Section 204 of the RRA;

156 (l) Omitted.

157 (m) "Irrigation Water" shall mean water made available from the Project that is  
158 used primarily in the production of agricultural crops or livestock, including domestic use incidental  
159 thereto, and watering of livestock;

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160 (n) "Landholder" shall mean a party that directly or indirectly owns or leases  
161 nonexempt land, as provided in 43 CFR 426.2;

162 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than  
163 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human  
164 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are  
165 kept for personal enjoyment or water delivered to landholdings operated in units of less than five  
166 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of  
167 water delivered to any such landholding is a use described in subdivision (m) of this Article;

168 (p) Omitted.

169 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable  
170 care, control, operation, repair, replacement (other than capital replacement), and maintenance of  
171 Project facilities;

172 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their) successors  
173 or assigns, which has (have) the obligation to operate and maintain all or a portion of the Delta  
174 Division Facilities pursuant to written agreement(s) with the United States. When this Contract was  
175 entered into, the Operating Non-Federal Entities were the San Luis and Delta-Mendota Water  
176 Authority and, with respect to San Luis Unit facilities, the California Department of Water Resources,  
177 and the Contractor;

178 (s) "Project" shall mean the Central Valley Project owned by the United States and  
managed by the Department of the Interior, Bureau of Reclamation;

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180 (t) "Project Contractors" shall mean all parties who have water service contracts  
181 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

182 (u) "Project Water" shall mean all water that is developed, diverted, stored, or  
183 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance  
184 with the terms and conditions of water rights acquired pursuant to California law;

185 (v) "Rates" shall mean the payments determined annually by the Contracting  
186 Officer in accordance with the then current applicable water ratesetting policies for the Project, as  
187 described in subdivision (a) of Article 7 of this Contract;

188 (w) Omitted.

189 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed  
190 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
191 through any agency of the Interior;

192 (y) Omitted

193 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for  
194 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

195 (aa) "Water Made Available" shall mean the estimated amount of Project Water  
196 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,  
197 pursuant to subdivision (a) of Article 4 of this Contract;

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198 (bb) "Water Scheduled" shall mean Project Water made available to the Contractor  
199 for which times and quantities for delivery have been established by the Contractor and Contracting  
200 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

201 (cc) "Year" shall mean the period from and including March 1 of each Calendar  
202 Year through the last day of February of the following Calendar Year.

203 TERM OF CONTRACT - RIGHT TO USE OF WATER

204 2. (a) This Contract shall be effective from January 1, 2008 and shall remain in  
205 effect through February 28, 2010, and thereafter will be renewed as described in this Article. Except  
206 as provided in subdivision (b) of this Article, until completion of all appropriate environmental  
207 review, and provided that the Contractor has complied with all the terms and conditions of the interim  
208 renewal contract in effect for the period immediately preceding the requested successive interim  
209 renewal contract, this Contract will be renewed, upon request of the Contractor, for successive  
210 interim periods each of which shall be no more than two (2) Years in length. Also, except as  
211 provided in subdivision (b) of this Article, in order to promote orderly and cost-effective contract  
212 administration, the terms and conditions in subsequent interim renewal contracts shall be identical to  
213 the terms and conditions in the interim renewal contract immediately preceding the subsequent  
214 interim renewal contract: Provided, however, That each party preserves the right to propose  
215 modification(s) in any interim renewal contract other than those described in subdivision (b) of this  
216 Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be  
included in any successive interim renewal contracts. Said modification(s) of each successive interim

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218 renewal contract shall be agreed upon within a reasonable time prior to the expiration of the then  
219 existing interim renewal contract. Nothing in this Article shall in any way alter the obligation that,  
220 upon final completion of any necessary environmental documentation, the Secretary shall, pursuant to  
221 Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a  
222 period of twenty-five (25) Years and may thereafter renew such long-term renewal contracts for  
223 successive periods not to exceed twenty-five (25) Years each.

224 (b) The parties have engaged and if necessary will continue to engage in  
225 good faith negotiations intended to permit the execution of a twenty-five (25) Year long-term renewal  
226 contract contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a long-term  
227 renewal contract. The parties recognize the possibility that this schedule may not be met without  
228 further negotiations. Accordingly: In the event (i) the Contractor and Contracting Officer have  
229 reached agreement on the terms of the Contractor's long-term renewal contract or (ii) the Contractor  
230 and Contracting Officer have not completed the negotiations on the Contractor's long-term renewal  
231 contract, believe that further negotiations on that contract would be beneficial, and mutually commit  
232 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation  
233 required to allow execution of the Contractor's long-term renewal contract by both parties has not  
234 been completed in time to allow execution of the Contractor's long-term renewal contract by  
235 February 28, 2010, then (iv), the parties will expeditiously complete the environmental  
236 documentation required of each of them in order to execute the Contractor's long-term renewal  
237 contract at the earliest practicable date. In addition, the Contractor's then current interim renewal

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238 contract will be renewed without change upon the request of either party through the agreed-upon  
239 effective date of the Contractor's long-term renewal contract or, in the absence of agreement on the  
240 terms of the Contractor's long-term renewal contract, through the succeeding February 28.

241 (c) The omission of language in this Contract providing for conversion of this  
242 interim renewal contract or any subsequent renewals thereof to a repayment contract, pursuant to the  
243 Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's right to assert a right to have  
244 such language included in subsequent renewals of this Contract or to exercise such conversion, all as  
245 provided by law, or to negotiate the language regarding such conversion to be included in subsequent  
246 renewal contracts.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

248 3. (a) During each Year, consistent with all applicable State water rights permits, and  
249 licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this Contract, the  
250 Contracting Officer shall make available for delivery to the Contractor 1,150,000 acre-feet of Project  
251 Water for irrigation and M&I purposes. Provided, however, during the two (2) month period of  
252 January and February of Year, 2008, the Contracting Officer shall make available for delivery to the  
253 Contractor that portion of the 2007 allocation of Project Water unused by the Contractor under the  
254 Existing Contract. Water Delivered to the Contractor in accordance with this subdivision shall be  
255 scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

256 (a) (1) Notwithstanding any other provisions of this Contract, in the event the  
Secretary implements a program to retire land from irrigated agricultural production within the

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258 Contractor's Service Area as a means of addressing drainage in the San Luis Unit, the Contracting  
259 Officer shall conduct a water needs assessment to determine whether the Contract Total will be  
260 reduced. An initial water needs assessment shall be conducted upon the retirement of 25 percent of  
261 the land projected to be retired under such land retirement program. Subsequent assessments shall be  
262 conducted upon the retirement of 50 percent and 75 percent of the land projected to be retired and a  
263 final assessment will be conducted at the conclusion of the land retirement program. Any water needs  
264 assessment performed pursuant to this paragraph (1) shall update the water needs assessment used to  
265 compute the quantity of Project Water to be made available under this Contract, which was submitted  
266 to the Contractor on November 2, 2000, and shall be conducted pursuant to the methodology attached  
267 to this Contract as Exhibit "C." The Contractor may request the Contracting Officer update the  
268 methodology employed based upon Contractor-specific information made available to the  
269 Contracting Officer by the Contractor. Upon completion of any water needs assessment performed  
270 pursuant to this paragraph, the Contracting Officer may make a determination to reduce the quantity  
271 of water to be made available under this Contract, and the Contract Total shall be reduced according  
272 to that determination; Provided, so long as the then-existing Contract Total can be put to reasonable  
273 and beneficial use as determined by the water needs assessment on Eligible Lands within the  
274 Contractor's Service Area that are not retired, the retirement of land shall not affect the quantity of  
275 Project Water to be made available pursuant to this Contract.

276 (b) Because the capacity of the Project to deliver Project Water has been  
277 constrained in recent years and may be constrained in the future due to many factors including



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278 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor  
279 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given  
280 Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected that the  
281 Contract Total set forth in this Contract will not be available to the Contractor in many years.  
282 Nothing in this subdivision (b) of this Article shall affect the rights and obligations of the parties  
283 under any provision of this Contract.

284 (c) The Contractor shall utilize the Project Water in accordance with all applicable  
285 legal requirements.

286 (c) (1) In the event any Project Contractor (other than a Cross Valley  
287 Contractor) that receives Project Water through the Delta Division Facilities obtains a contractual  
288 agreement that the Contracting Officer shall make Project Water available at a point or points of  
289 delivery in or north of the Delta, at the request of the Contractor and upon completion of any required  
290 environmental documentation, this Contract shall be amended to provide for deliveries in or north of  
291 the Delta on mutually agreeable terms. Such amendments to this Contract shall be limited solely to  
292 those changes made necessary by the addition of such alternate points of delivery in or north of the  
293 Delta; Provided, That the Contracting Officer's use of the Harvey O. Banks Pumping Plant to deliver  
294 Project Water does not trigger this right of amendment.

295 (d) The Contractor shall make reasonable and beneficial use of all water furnished  
296 pursuant to this Contract. Ground-water recharge programs (direct, indirect, or in lieu), ground-  
water banking programs, surface water storage programs, and other similar programs utilizing Project

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298 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service  
299 Area which are consistent with applicable State law and result in use consistent with Federal  
300 Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in  
301 the Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,  
302 further, That such water conservation plan demonstrates sufficient lawful uses exist in the  
303 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is  
304 demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law.  
305 Ground-water recharge programs, ground-water banking programs, surface water storage programs,  
306 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract  
307 conducted outside the Contractor's Service Area may be permitted upon written approval of the  
308 Contracting Officer, which approval will be based upon environmental documentation, Project Water  
309 rights, and Project operational concerns. The Contracting Officer will address such concerns in  
310 regulations, policies, or guidelines.

311 (e) The Contractor shall comply with requirements applicable to the Contractor in  
312 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract  
313 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are  
314 within the Contractor's legal authority to implement. The Existing Contract, which evidences in  
315 excess of 40 years of diversions for irrigation and/or M&I purposes of the quantities of Project Water  
316 provided in subdivision (a) of Article 3 of this Contract, will be considered in developing an  
317 appropriate baseline for the biological assessment(s) prepared pursuant to the ESA, and any other

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318 needed environmental review. Nothing herein shall be construed to prevent the Contractor from  
319 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
320 biological opinion or other environmental documentation referred to in this Article.

321 (f) Following the declaration of Water Made Available under Article 4 of this  
322 Contract, the Contracting Officer will make a determination whether Project Water, or other water  
323 available to the Project, can be made available to the Contractor in addition to the Contract Total  
324 under this Article during the Year without adversely impacting other Project Contractors. At the  
325 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making  
326 such a determination. If the Contracting Officer determines that Project Water, or other water  
327 available to the Project, can be made available to the Contractor, the Contracting Officer will  
328 announce the availability of such water and shall so notify the Contractor as soon as practical. The  
329 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of  
330 taking such water to determine the most equitable and efficient allocation of such water. If the  
331 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make  
332 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,  
333 and policies. Subject to existing interim renewal and long-term contractual commitments, water  
334 rights and operational constraints, interim renewal and long-term Project Contractors shall have a first  
335 right to acquire such water, including Project Water made available pursuant to Section 215 of the  
336 RRA.

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337           (g)     The Contractor may request permission to reschedule for use during the  
338 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,  
339 referred to as “rescheduled water.” The Contractor may request permission to use during the current  
340 Year a quantity of Project Water which may be made available by the United States to the Contractor  
341 during the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may  
342 permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

343           (h)     The Contractor’s right pursuant to Federal Reclamation law and applicable  
344 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the  
345 term thereof and any subsequent interim renewal contracts, as described in Article 2 of this Contract,  
346 during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its  
347 obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall  
348 affect the Contracting Officer’s ability to impose shortages under Article 11 or subdivision (b) of  
349 Article 12 of this Contract or applicable provisions of any subsequent interim renewal contracts.

350           (i)     Project Water furnished to the Contractor pursuant to this Contract may be  
351 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this  
352 Contract upon written approval by the Contracting Officer in accordance with the terms and  
353 conditions of such approval.

354           (j)     The Contracting Officer shall make reasonable efforts to protect the water  
355 rights necessary for the Project and to provide the water available under this Contract and any renewal  
356 thereof. The Contracting Officer shall not object to participation by the Contractor, in the capacity

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357 and to the extent permitted by law, in administrative proceedings related to the Project Water rights;  
358 Provided, that the Contracting Officer retains the right to object to the substance of the Contractor's  
359 position in such a proceeding; Provided, further, That in such proceedings the Contracting Officer  
360 shall recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

361 TIME FOR DELIVERY OF WATER

362 4. (a) On or about February 20 each Calendar Year, the Contracting Officer shall  
363 announce the Contracting Officer's expected declaration of the Water Made Available. Such  
364 declaration will be expressed in terms of Water Made Available and will be updated monthly, and  
365 more frequently if necessary, based on the then-current operational and hydrologic conditions and a  
366 new declaration with changes, if any, to the Water Made Available will be made. The Contracting  
367 Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant  
368 supporting information, upon the written request of the Contractor.

369 (b) On or before each March 1 and at such other times as necessary, the Contractor  
370 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,  
371 showing the monthly quantities of Project Water to be delivered by the United States to the  
372 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting  
373 Officer shall use all reasonable means to deliver Project Water according to the approved schedule for  
374 the Year commencing on such March 1.

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375 (c) The Contractor shall not schedule Project Water in excess of the quantity of  
376 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's  
377 Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract during any Year.

378 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
379 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial  
380 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written  
381 revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable time prior to  
382 the date(s) on which the requested change(s) is (are) to be implemented.

383 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

384 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
385 Contract shall be delivered to the Contractor at Project facilities and any additional point or points of  
386 delivery either on Project facilities or another location or locations mutually agreed to in writing by  
387 the Contracting Officer and the Contractor.

388 (b) The Contracting Officer, either directly or indirectly through its written  
389 agreements(s) with the Operating Non-Federal Entity(ies), shall make all reasonable efforts to  
390 maintain sufficient flows and levels of water in the Project facilities to deliver Project Water to the  
391 Contractor at the point or points of delivery established pursuant to subdivision (a) of this Article.

392 (c) The Contractor shall deliver Irrigation Water in accordance with any applicable  
393 land classification provisions of Federal Reclamation law and the associated regulations. The

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394 Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless  
395 approved in advance by the Contracting Officer.

396 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
397 measured and recorded with equipment furnished, installed, operated, and maintained by the  
398 Contracting Officer either directly or indirectly through its written agreements(s) with the Operating  
399 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting  
400 Officer at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon  
401 the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be  
402 investigated by the appropriate Operating Non-Federal Entity(ies) the accuracy of such measurements  
403 and shall take any necessary steps to adjust any errors appearing therein. For any period of time when  
404 accurate measurements have not been made, the Contracting Officer shall consult with the Contractor  
405 and the appropriate Operating Non-Federal Entity(ies), if any, prior to making a final determination of  
406 the quantity delivered for that period of time.

407 (e) Absent a separate contrary written agreement with the Contractor, neither the  
408 Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the control,  
409 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this  
410 Contract beyond the point or points of delivery established pursuant to subdivision (a) of this Article.  
411 The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on  
412 account of damage or claim of damage of any nature whatsoever for which there is legal  
responsibility, including property damage, personal injury, or death arising out of or connected with

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414 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such  
415 point or points of delivery except for any damage or claim arising out of: (i) acts or omissions of the  
416 Contracting Officer or any of its officers, employees, agents, and assigns, including the Operating  
417 Non-Federal Entity(ies) with the intent of creating the situation resulting in any damage or claim;  
418 (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, and  
419 assigns, including the Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer  
420 or any of its officers, employees, agents, and assigns including the Operating Non-Federal Entity(ies);  
421 (iv) a malfunction of facilities owned and/or operated by the United States or the Operating  
422 Non-Federal Entity(ies); or (v) failure of the United States, its officers, employees, agents, and  
423 assigns, including the Operating Non-Federal Entity(ies), to provide drainage service.

424 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

425 6. (a) The Contractor has established a measuring program satisfactory to the  
426 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
427 purposes within the Contractor's Service Area is measured at each agricultural turnout and such water  
428 delivered for M&I purposes is measured at each M&I service connection. The water measuring  
429 devices or water measuring methods of comparable effectiveness must be acceptable to the  
430 Contracting Officer. The Contractor shall be responsible for installing, operating, maintaining, and  
431 repairing all such measuring devices and implementing all such water measuring methods at no cost  
432 to the United States. The Contractor shall use the information obtained from such water measuring  
433 devices or water measuring methods to ensure its proper management of the water; to bill water users



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434 for water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes  
435 by customer class as defined in the Contractor's water conservation plan provided for in Article 26 of  
436 this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing  
437 and collecting any charges, assessments, or other revenues authorized by California law. The  
438 Contractor shall include a summary of all its annual surface water deliveries in the annual report  
439 described in subdivision (c) of Article 26 of this Contract.

440 (b) To the extent the information has not otherwise been provided, upon execution  
441 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the  
442 measurement devices or water measuring methods being used or to be used to implement subdivision  
443 (a) of this Article and identifying the agricultural turnouts and the M&I service connections or  
444 alternative measurement programs approved by the Contracting Officer, at which such measurement  
445 devices or water measuring methods are being used, and, if applicable, identifying the locations at  
446 which such devices and/or methods are not yet being used including a time schedule for  
447 implementation at such locations. The Contracting Officer shall advise the Contractor in writing  
448 within 60 days as to the adequacy and necessary modifications, if any, of the measuring devices or  
449 water measuring methods identified in the Contractor's report and if the Contracting Officer does not  
450 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the  
451 Contractor that the measuring devices or methods are inadequate, the parties shall within 60 days  
452 following the Contracting Officer's response, negotiate in good faith the earliest practicable date by  
which the Contractor shall modify said measuring devices and/or measuring methods as required by

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454 the Contracting Officer to ensure compliance with subdivision (a) of this Article.

455 (c) All new surface water delivery systems installed within the Contractor's

456 Service Area after the effective date of this Contract shall also comply with the measurement

457 provisions described in subdivision (a) of this Article.

458 (d) The Contractor shall inform the Contracting Officer and the State of California

459 in writing by April 30 of each Year of the monthly volume of surface water delivered within the

460 Contractor's Service Area during the previous Year.

461 (e) The Contractor shall inform the Contracting Officer and the Operating

462 Non-Federal Entity(ies) on or before the 20<sup>th</sup> calendar day of each month of the quantity of Irrigation

463 Water and M&I Water taken during the preceding month.

464 RATES AND METHOD OF PAYMENT FOR WATER

465 7. (a) The Contractor shall pay the United States as provided in this Article for all

466 Delivered Water at Rates and Charges established in accordance with: (i) the Secretary's ratesetting

467 policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for

468 M&I Water. Such ratesetting policies shall be amended, modified, or superseded only through a

469 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules

470 and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be

471 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to in

472 writing by the Contractor and the Contracting Officer. The Rates and Charges applicable to the

473 Contractor upon execution of this Contract are set forth in Exhibit "B," as may be revised annually.

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474 (b) The Contracting Officer shall notify the Contractor of the Rates and Charges as  
475 follows:

476 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
477 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period  
478 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
479 the basis for such estimate. The Contractor shall be allowed not less than two months to review and  
480 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting  
481 Officer shall notify the Contractor in writing of the Charges to be in effect during the period  
482 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and  
such notification shall revise Exhibit "B."

484 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall  
485 make available to the Contractor an estimate of the Rates for Project Water for the following Year  
486 and the computations and cost allocations upon which those Rates are based. The Contractor shall be  
487 allowed not less than two months to review and comment on such computations and cost allocations.  
488 By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the  
489 final Rates to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

490 (c) At the time the Contractor submits the initial schedule for the delivery of  
491 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor  
492 shall make an advance payment to the United States equal to the total amount payable pursuant to the  
applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be

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494 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end  
495 of the first month and before the end of each calendar month thereafter, the Contractor shall make an  
496 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the  
497 Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
498 following. Adjustments between advance payments for Water Scheduled and payments at Rates due  
499 for Water Delivered shall be made before the end of the following month; Provided, That any revised  
500 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the  
501 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with  
502 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered  
503 to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered  
504 to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the  
505 Contractor, no additional Project Water shall be delivered to the Contractor unless and until an  
506 advance payment at the Rates then in effect for such additional Project Water is made. Final  
507 adjustment between the advance payments for the Water Scheduled and payments for the quantities  
508 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable  
509 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water  
510 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by the  
511 last day of February.

512 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
513 subdivision (c) of this Article to the United States for Water Delivered, at the Charges then in effect,

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514 before the end of the month following the month of delivery. The payments shall be consistent with  
515 the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery report for  
516 the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is no Operating  
517 Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed a bill for  
518 the payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of  
519 Charges shall be made through the adjustment of payments due to the United States for Charges for  
520 the next month. Any amount to be paid for past due payment of Charge shall be computed pursuant  
521 to Article 20 of this Contract.

522 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f), or  
523 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable  
524 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;  
525 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall  
526 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision  
527 (a) of this Article.

528 (f) Payments to be made by the Contractor to the United States under this Contract  
529 may be paid from any revenues available to the Contractor.

530 (g) All revenues received by the United States from the Contractor relating to the  
531 delivery of Project Water or the delivery of non-Project water through Project facilities shall be  
532 allocated and applied in accordance with Federal Reclamation law and the associated rules or  
regulations, and the then-current Project ratesetting policies for M&I Water or Irrigation Water.

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534           (h)     The Contracting Officer shall keep its accounts pertaining to the administration  
535 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal  
536 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer  
537 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all  
538 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,  
539 and a summary of all water delivery information. The Contracting Officer and the Contractor shall  
540 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,  
541 reports, or information.

542           (i)     The parties acknowledge and agree that the efficient administration of this  
543 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
544 policies, and procedures used for establishing Rates and Charges and/or for making and allocating  
545 payments, other than those set forth in this Article may be in the mutual best interest of the parties, it  
546 is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies,  
547 and procedures for any of those purposes while this Contract is in effect without amending this  
548 Contract.

549           (j)     Omitted.

550           (k)     For the term of this Contract, Rates applied under the respective ratesetting  
551 policies will be established to recover only reimbursable O&M (including any deficits) and capital  
552 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and  
553 interest, where appropriate, except in instances where a minimum Rate is applicable in accordance

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554 with the relevant Project ratesetting policy. Changes of significance in practices which implement the  
555 Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has  
556 provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed  
557 change.

558 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
559 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in  
560 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect the  
561 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project  
562 Water to the transferee's point of delivery. If the Contractor is receiving lower Rates and Charges  
because of inability to pay and is transferring Project Water to another entity whose Rates and  
564 Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project Water  
565 shall not be adjusted to reflect the Contractor's inability to pay.

566 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting  
567 Officer is authorized to adjust determinations of ability to pay every five years.

568 NON-INTEREST BEARING O&M DEFICITS

569 8. The Contractor and the Contracting Officer concur that, as of the effective date of this  
570 Contract the Contractor has no non-interest bearing O&M deficits and shall have no further liability  
571 therefore.

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572 SALES, TRANSFERS, OR EXCHANGES OF WATER

573 9. (a) The right to receive Project Water provided for in this Contract may be sold,  
574 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if  
575 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable  
576 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this  
577 Contract may take place without the prior written approval of the Contracting Officer, except as  
578 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be  
579 approved absent all appropriate environmental documentation, including, but not limited to,  
580 documents prepared pursuant to the NEPA and ESA. Such environmental documentation should  
581 include, as appropriate, an analysis of ground-water impacts and economic and social effects,  
582 including environmental justice, of the proposed water transfers on both the transferor and transferee.

583 (b) In order to facilitate efficient water management by means of water transfers of  
584 the type historically carried out among Project Contractors located within the same geographical area  
585 and to allow the Contractor to participate in an accelerated water transfer program during the term of  
586 this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental  
587 documentation, including, but not limited to, documents prepared pursuant to the NEPA and ESA,  
588 analyzing annual transfers within such geographical areas and the Contracting Officer shall determine  
589 whether such transfers comply with applicable law. Following the completion of the environmental  
590 documentation, such transfers addressed in such documentation shall be conducted with advance  
591 notice to the Contracting Officer, but shall not require prior written approval by the Contracting



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592 Officer. Such environmental documentation and the Contracting Officer's compliance determination  
593 shall be reviewed every five years and updated, as necessary, prior to the expiration of the then  
594 existing five-year period. All subsequent environmental documentation shall include an alternative to  
595 evaluate not less than the quantity of Project Water historically transferred within the same  
596 geographical area.

597 (c) For a water transfer to qualify under subdivision (b) of this Article, such water  
598 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for  
599 M&I use, ground-water recharge, ground-water banking, or similar groundwater activities, surface  
600 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to  
601 established cropland, wildlife refuges, ground-water basins, or M&I use; (ii) occur within a single  
602 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing  
603 facilities with no new construction or modifications to facilities and be between existing Project  
604 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply  
605 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of  
606 the environment and Indian Trust Assets, as defined under Federal law.

607 APPLICATION OF PAYMENTS AND ADJUSTMENTS

608 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,  
609 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of  
610 the Contractor arising out of this Contract then due and payable. Overpayments of more than \$1,000  
shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment, at

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612 the option of the Contractor, may be credited against amounts to become due to the United States by  
613 the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole  
614 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the  
615 Project Water supply provided for herein. All credits and refunds of overpayments shall be made  
616 within 30 days of the Contracting Officer obtaining direction as to how to credit or refund such  
617 overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year  
618 in which the overpayment was made.

619 (b) All advances for miscellaneous costs incurred for work requested by the  
620 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when the  
621 work has been completed. If the advances exceed the actual costs incurred, the difference will be  
622 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will  
623 be billed for the additional costs pursuant to Article 25 of this Contract.

624 TEMPORARY REDUCTIONS--RETURN FLOWS

625 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the  
626 requirements of Federal law, and (ii) the obligations of the United States under existing contracts, or  
627 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make  
628 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this  
629 Contract.

630 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may temporarily  
631 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the

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632 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project  
633 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as  
634 feasible the Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due  
635 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in  
636 which case no notice need be given; Provided, That the United States shall use its best efforts to avoid  
637 any discontinuance or reduction in such service. Upon resumption of service after such reduction or  
638 discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the  
639 quantity of Project Water which would have been delivered hereunder in the absence of such  
640 discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water  
642 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the  
643 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States  
644 any right to seepage or return flow being put to reasonable and beneficial use pursuant to this  
645 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or  
646 under the Contractor.

647 CONSTRAINTS ON THE AVAILABILITY OF WATER

648 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable  
649 means to guard against a Condition of Shortage in the quantity of water to be made available to the  
650 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition

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651 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination  
652 as soon as practicable.

653 (b) If there is a Condition of Shortage because of errors in physical operations of  
654 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions  
655 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision  
656 (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its  
657 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

658 (c) In any Year in which there may occur a Condition of Shortage for any of the  
659 reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this Article, the  
660 Contracting Officer will first allocate the available Project Water consistent with the Project M&I  
661 Water Shortage in its form applicable under Article 12(c) of water service contracts in effect on the  
662 date of this contract which provide water service from Delta Division Facilities for determining the  
663 amount of Project Water Available for delivery to the Project Contractors. Subject to the foregoing  
664 allocation, in any year in which there may occur a Condition of Shortage, the Contracting Officer  
665 shall then apportion Project Water among the Contractor and others entitled to Project Water from  
666 Delta Division Facilities under long-term water service or repayment contracts (or renewals thereof or  
667 binding commitments therefore) in force on February 28, 2005, as follows:

668 (1) The Contracting Officer shall make an initial and subsequent  
669 determination as necessary of the total quantity of Project Water estimated to be scheduled or actually  
670 scheduled under subdivision (b) of Article 4 of this Contract and under all other interim renewal,

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671 long-term water service or repayment contracts then in force for the delivery of Project Water by the  
672 United States from Delta Division Facilities during the relevant Year, the quantity so determined  
673 being hereinafter referred to as the scheduled total;

674 (2) A determination shall be made of the total quantity of Project Water  
675 that is available for meeting the scheduled total, the quantity so determined being hereinafter referred  
676 to as the available supply;

677 (3) The total quantity of Project Water estimated to be scheduled or  
678 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of Article 4  
679 hereof, shall be divided by the scheduled total, the quotient thus obtained being hereinafter referred to  
680 as the Contractor's proportionate share; and

681 (4) The available supply shall be multiplied by the Contractor's  
682 proportionate share and the result shall be the quantity of Project Water made available by the  
683 United States to the Contractor for the relevant Year in accordance with the schedule developed by  
684 the Contracting Officer under subdivision (c) (1) of this Article 12, but in no event shall such amount  
685 exceed the Contract Total. In the event the Contracting Officer subsequently determines that the  
686 Contracting Officer can increase or needs to decrease the available supply for delivery from Delta  
687 Division Facilities to interim renewal, long-term water service, and repayment contractors during the  
688 relevant Year, such additions or reductions to the available supply shall be apportioned consistent  
689 with subparagraphs (1) through (4), inclusive.

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690 (d) By entering into this Contract, the Contractor does not waive any legal rights or  
691 remedies it may have to file or participate in any administrative or judicial proceeding contesting  
692 (i) the sufficiency of the Project M&I Water Shortage Policy; (ii) the substance of such a policy;  
693 (iii) the applicability of such a policy; or (iv) the manner in which such policy is implemented in order  
694 to allocate Project Water between M&I and irrigation purposes; Provided, That the Contractor has  
695 commenced any such judicial challenge or any administrative procedures necessary to institute any  
696 judicial challenge within six months of the policy becoming final. By agreeing to the foregoing, the  
697 Contracting Officer does not waive any legal defenses or remedies that it may have to assert in such a  
698 proceeding. Nothing contained herein shall be interpreted to validate or invalidate the Project M&I  
699 Water Shortage Policy.

700 (e) Omitted.

701 UNAVOIDABLE GROUND-WATER PERCOLATION

702 13. To the extent applicable, the Contractor shall not be deemed to have delivered  
703 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such lands  
704 are irrigated with ground water that reaches the underground strata as an unavoidable result of the  
705 delivery of Irrigation Water by the Contractor to Eligible Lands.

706 RULES AND REGULATIONS

707 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities  
708 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the RRA  
709 (43 U.S.C.390 aa et seq.), as amended and supplemented, and the rules and regulations promulgated  
710 by the Secretary under Federal Reclamation law.

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711

WATER AND AIR POLLUTION CONTROL

712 15. The Contractor, in carrying out this Contract, shall comply with all applicable water  
713 and air pollution laws and regulations of the United States and the State of California, and shall  
714 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

715

QUALITY OF WATER

716 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to  
717 this Contract shall be operated and maintained to enable the United States to deliver Project Water to  
718 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act  
719 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986  
720 (100 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct  
or furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the  
722 Contractor pursuant to this Contract. The United States does not warrant the quality of Water  
723 Delivered to the Contractor pursuant to this Contract.

724 (b) The O&M of Project facilities shall be performed in such manner as is  
725 practicable to maintain the quality of raw water made available through such facilities at the highest  
726 level reasonably attainable as determined by the Contracting Officer. The Contractor shall be  
727 responsible for compliance with all Federal and State water quality standards applicable to surface  
728 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor  
729 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

730 (c) The Contracting Officer shall notify the Contractor in writing when drainage  
731 service becomes available. Thereafter, the Contracting Officer shall provide drainage service to the  
732 Contractor at rates established pursuant to the then-existing ratesetting policy for Irrigation Water;

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733 Provided, That such ratesetting policy shall be amended, modified, or superseded only through the  
734 process described in subdivision (a) of Article 7 of this Contract.

735 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

736 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other  
737 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may  
738 be simultaneously transported through the same distribution facilities of the Contractor subject to the  
739 following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were  
740 constructed without funds made available pursuant to Federal Reclamation law, the provisions of  
741 Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation  
742 Water; (ii) the eligibility of land to receive Irrigation Water must be established through the  
743 certification requirements as specified in the Acreage Limitation Rules and Regulations  
744 (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area  
745 can be established and the quantity of Irrigation Water to be utilized is less than or equal to the  
746 quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling  
747 Irrigation Water and non-Project water are (were) constructed with funds made available pursuant to  
748 Federal Reclamation law, the non-Project water will be subject to the acreage limitation provisions of  
749 Federal Reclamation law, unless the Contractor pays to the United States the incremental fee  
750 described in 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will  
751 calculate annually the cost to the Federal Government, including interest, of storing or delivering non-  
752 Project water, which for purposes of this Contract shall be determined as follows: The quotient shall



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753 be the unpaid distribution system costs divided by the total irrigable acreage within the Contractor's  
754 Service Area. The incremental fee per acre is the mathematical result of such quotient times the  
755 interest rate determined using Section 202 (3) of the Act of October 12, 1982 (96 Stat. 1263). Such  
756 incremental fee will be charged to each acre of excess or full-cost land within the Contractor's  
757 Service Area that receives non-Project water through Federally-financed or -constructed facilities.  
758 The incremental fee calculation methodology will continue during the term of this Contract absent the  
759 promulgation of a contrary Reclamation-wide rule, regulation, or policy adopted after the Contractor  
760 has been afforded the opportunity to review and comment on the proposed rule, regulation, or policy.  
761 If such rule, regulation, or policy is adopted, it shall supersede this provision.

(b) Water or water rights now owned or hereafter acquired by the Contractor, other  
763 than from the United States may be stored, conveyed, and/or diverted through Project facilities,  
764 subject to the completion of appropriate environmental documentation, with the approval of the  
765 Contracting Officer and the execution of any contract determined by the Contracting Officer to be  
766 necessary, consistent with the following provisions:

767 (1) The Contractor may introduce non-Project water into Project facilities  
768 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,  
769 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an  
770 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project  
771 use power policy, if such Project use power policy is applicable, each as amended, modified, or  
772 superseded from time to time.

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773                               (2)     Delivery of such non-Project water in and through Project facilities  
774 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as  
775 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other  
776 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other  
777 Project Contractors; or (iv) interfere with the physical maintenance of the Project facilities.

778                               (3)     Neither the United States nor the Operating Non-Federal Entity(ies)  
779 shall be responsible for control, care or distribution of the non-Project water before it is introduced  
780 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to  
781 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their  
782 respective officers, agents, and employees, from any claim for damage to persons or property, direct  
783 or indirect, resulting from the act(s) of the Contractor, its officers, employees, agents, or assigns, in  
784 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water  
785 into Project facilities.

786                               (4)     Diversion of such non-Project water into Project facilities shall be  
787 consistent with all applicable laws, and if involving ground water, consistent with any applicable  
788 ground-water management plan for the area from which it was extracted.

789                               (5)     After Project purposes are met, as determined by the Contracting  
790 Officer, the United States and Project Contractors entitled to Project Water from Delta Division  
791 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be available  
792 by the Contracting Officer for conveyance and transportation of non-Project water prior to any such

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793 remaining capacity being made available to non-Project contractors. Other Project Contractors shall  
794 have a second priority to any remaining capacity of facilities declared to be available by the  
795 Contracting Officer for conveyance and transportation of non-Project water prior to any such  
796 remaining capacity being made available to non-Project contractors.

797 OPINIONS AND DETERMINATIONS

798 18. (a) Where the terms of this Contract provide for actions to be based upon the  
799 opinion or determination of either party to this Contract, said terms shall not be construed as  
800 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
801 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve  
the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or  
803 unreasonable opinion or determination. Each opinion or determination by either party shall be  
804 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall  
805 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
806 determination implementing a specific provision of Federal law embodied in statute or regulation.

807 (b) The Contracting Officer shall have the right to make determinations necessary  
808 to administer this Contract that are consistent with the provisions of this Contract, the laws of the  
809 United States and of the State of California, and the rules and regulations promulgated by the  
810 Secretary. Such determinations shall be made in consultation with the Contractor to the extent  
811 reasonably practicable.

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812 COORDINATION AND COOPERATION

813 19. (a) In order to further their mutual goals and objectives, the Contracting Officer  
814 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other  
815 affected Project Contractors, in order to improve the O&M of the Project. The communication,  
816 coordination, and cooperation regarding O&M shall include, but not be limited to, any action which  
817 will or may materially affect the quantity or quality of Project Water supply, the allocation of Project  
818 Water supply, and Project financial matters including, but not limited to, budget issues. The  
819 communication, coordination, and cooperation provided for hereunder shall extend to all provisions  
820 of this Contract. Each party shall retain exclusive decision making authority for all actions, opinions,  
821 and determinations to be made by the respective party.

822 (b) Within 120 days following the effective date of this Contract, the Contractor,  
823 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested  
824 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be  
825 amended as necessary separate and apart from this Contract. The goal of this process shall be to  
826 provide, to the extent practicable, the means of mutual communication and interaction regarding  
827 significant decisions concerning Project O&M on a real-time basis.

828 (c) In light of the factors referred to in subdivision (b) of Article 3 of this Contract,  
829 it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

830 (1) The Contracting Officer will, at the request of the Contractor, assist in  
831 the development of integrated resource management plans for the Contractor. Further, the

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832 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to  
833 improve water supply, water quality, and reliability.

834 (2) The Secretary will, as appropriate, pursue program and project  
835 implementation and authorization in coordination with Project Contractors to improve the water  
836 supply, water quality, and reliability of the Project for all Project purposes.

837 (3) The Secretary will coordinate with Project Contractors and the State of  
838 California to seek improved water resource management.

839 (4) The Secretary will coordinate actions of agencies within the  
840 Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually,  
842 hold division-level meetings to discuss Project operations, division-level water management  
843 activities, and other issues as appropriate.

844 (d) Without limiting the contractual obligations of the Contracting Officer under  
845 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the  
846 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other  
847 interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, or  
848 the physical integrity of structures or facilities.

849 CHARGES FOR DELINQUENT PAYMENTS

850 20. (a) The Contractor shall be subject to interest, administrative, and penalty charges  
851 on delinquent installments or payments. When a payment is not received by the due date, the  
852 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to

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854 cover additional costs of billing and processing the delinquent payment. When a payment is  
855 delinquent 90 days or more, the Contractor shall pay an additional penalty charge of six percent per  
856 year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay  
857 any fees incurred for debt collection services associated with a delinquent payment.

858 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in  
859 the Federal Register by the Department of the Treasury for application to overdue payments, or the  
860 interest rate of one-half of one percent per month prescribed by Section 6 of the Reclamation Project  
861 Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and  
862 remain fixed for the duration of the delinquent period.

863 (c) When a partial payment on a delinquent account is received, the amount  
864 received shall be applied, first to the penalty, second to the administrative charges, third to the  
865 accrued interest, and finally to the overdue payment.

866 EQUAL OPPORTUNITY

867 21. During the performance of this Contract, the Contractor agrees as follows:

868 (a) The Contractor will not discriminate against any employee or applicant for  
869 employment because of race, color, religion, sex, or national origin. The Contractor will take  
870 affirmative action to ensure that applicants are employed, and that employees are treated during  
871 employment, without regard to their race, color, religion, sex, or national origin. Such action shall  
872 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
873 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
874 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in  
875 conspicuous places, available to employees and applicants for employment, notices to be provided by  
876 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

877 (b) The Contractor will, in all solicitations or advertisements for employees placed  
878 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for  
879 employment without discrimination because of race, color, religion, sex, or national origin.

880 (c) The Contractor will send to each labor union or representative of workers with  
881 which it has a collective bargaining agreement or other contract or understanding, a notice, to be  
882 provided by the Contracting Officer, advising the said labor union or workers' representative of the  
883 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and  
884 shall post copies of the notice in conspicuous places available to employees and applicants for  
885 employment.

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886 (d) The Contractor will comply with all provisions of Executive Order  
887 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of  
888 the Secretary of Labor.

889 (e) The Contractor will furnish all information and reports required by said  
890 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or  
891 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Officer  
892 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,  
893 regulations, and orders.

894 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
895 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be  
896 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible  
897 for further Government contracts in accordance with procedures authorized in said amended  
898 Executive Order, and such other sanctions may be imposed and remedies invoked as provided in said  
899 Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided  
900 by law.

902 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
903 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
904 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
905 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action  
906 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a  
907 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,  
908 That in the event the Contractor becomes involved in, or is threatened with, litigation with a  
909 subcontractor or vendor as a result of such direction, the Contractor may request the United States to  
900 enter into such litigation to protect the interests of the United States.

910 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

911 22. (a) The obligation of the Contractor to pay the United States as provided in this  
912 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation  
913 may be distributed among the Contractor's water users and notwithstanding the default of individual  
914 water users in their obligations to the Contractor.

915 (b) The payment of charges becoming due hereunder is a condition precedent to  
916 receiving benefits under this Contract. The United States shall not make water available to the  
917 Contractor through Project facilities during any period in which the Contractor may be in arrears in  
918 the advance payment of water rates due the United States. The Contractor shall not furnish water

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919 made available pursuant to this Contract for lands or parties which are in arrears in the advance  
920 payment of water rates levied or established by the Contractor.

921 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
922 obligation to require advance payment for water rates which it levies.

923 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

924 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
925 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age  
926 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), and any other applicable civil rights laws, as  
927 well as with their respective implementing regulations and guidelines imposed by the United States  
928 Department of the Interior and/or Reclamation.

929 (b) These statutes require that no person in the United States shall, on the grounds  
930 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the  
931 benefits of, or be otherwise subjected to discrimination under any program or activity receiving  
932 financial assistance from Reclamation. By executing this Contract, the Contractor agrees to  
933 immediately take any measures necessary to implement this obligation, including permitting officials  
934 of the United States to inspect premises, programs, and documents.

935 (c) The Contractor makes this agreement in consideration of and for the purpose of  
936 obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial  
937 assistance extended after the date hereof to the Contractor by Reclamation, including installment  
938 payments after such date on account of arrangements for Federal financial assistance, which were  
939 approved before such date. The Contractor recognizes and agrees that such Federal assistance will be  
940 extended in reliance on the representations and agreements made in this Article, and that the United  
941 States reserves the right to seek judicial enforcement thereof.

942 PRIVACY ACT COMPLIANCE

943 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the  
944 Act) and the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in maintaining  
945 Landholder acreage certification and reporting records, required to be submitted to the Contractor for  
946 compliance with Sections 206 and 228 of the RRA (96 Stat. 1266), and pursuant to 43 CFR 426.18.

947 (b) With respect to the application and administration of the criminal penalty  
948 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible  
949 for maintaining the certification and reporting records referenced in (a) above are considered to be  
950 employees of the Department of the Interior (See 5 U.S.C. 552a(m)).



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951 (c) The Contracting Officer or a designated representative shall provide the  
952 Contractor with current copies of the Interior Department Privacy Act regulations and Reclamation  
953 Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,  
954 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information  
955 contained in the Landholder's certification and reporting records.

956 (d) The Contracting Officer shall designate a full-time employee of Reclamation to  
957 be the System Manager who shall be responsible for making decisions on denials pursuant to  
958 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to  
959 grant requests by individuals for access to their own records.

960 (e) The Contractor shall forward promptly to the System Manager each proposed  
961 denial of access under 43 CFR 2.64; and each request for amendment of records filed under  
962 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
963 information and records necessary to prepare an appropriate response to the requester. These  
964 requirements do not apply to individuals seeking access to their own certification and reporting forms  
965 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy  
966 Act as a basis for the request.

967 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

968 25. In addition to all other payments to be made by the Contractor pursuant to this  
969 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
970 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of  
971 direct cost incurred by the United States for work requested by the Contractor associated with this  
972 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and  
973 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in  
974 writing in advance by the Contractor. This Article shall not apply to costs for routine contract  
975 administration.

976 WATER CONSERVATION

977 26. (a) Prior to the delivery of water provided from or conveyed through Federally-  
978 constructed or Federally-financed facilities pursuant to this Contract, the Contractor shall be  
979 implementing an effective water conservation and efficiency program based on the Contractor's water  
980 conservation plan that has been determined by the Contracting Officer to meet the conservation and  
981 efficiency criteria for evaluating water conservation plans established under Federal law. The water  
982 conservation and efficiency program shall contain definite water conservation objectives, appropriate  
983 economically feasible water conservation measures, and time schedules for meeting those objectives.  
984 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's  
985 continued implementation of such water conservation program. In the event the Contractor's water  
986 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of  
987 this Article 26 have not yet been determined by the Contracting Officer to meet such criteria, due to  
988 circumstances which the Contracting Officer determines are beyond the control of the Contractor,  
989 water deliveries shall be made under this Contract so long as the Contractor diligently works with the  
990 Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the  
991 Contractor immediately begins implementing its water conservation and efficiency program in  
992 accordance with the time schedules therein.

993 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
994 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement the  
995 Best Management Practices identified by the time frames issued by the California Urban Water

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996 Conservation Council for such M&I Water unless any such practice is determined by the Contracting  
997 Officer to be inappropriate for the Contractor.

998 (c) The Contractor shall submit to the Contracting Officer a report on the status of  
999 its implementation of the water conservation plan on the reporting dates specified in the then-existing  
1000 conservation and efficiency criteria established under Federal law.

1001 (d) At five-year intervals, the Contractor shall revise its water conservation plan to  
1002 reflect the then-current conservation and efficiency criteria for evaluating water conservation plans  
1003 established under Federal law and submit such revised water management plan to the Contracting  
1004 Officer for review and evaluation. The Contracting Officer will then determine if the water  
conservation plan meets Reclamation's then-current conservation and efficiency criteria for  
1006 evaluating water conservation plans established under Federal law.

1007 (e) If the Contractor is engaged in direct ground-water recharge, such activity shall  
1008 be described in the Contractor's water conservation plan.

1009 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1010 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1011 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter  
1012 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such  
1013 water shall not be considered Project Water under this Contract. In addition, this Contract shall not  
1014 be construed as limiting or curtailing any rights which the Contractor or any water user within the

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1015 Contractor's Service Area acquires or has available under any other contract pursuant to Federal  
1016 Reclamation law.

1017 O&M BY THE SAN LUIS AND DELTA-MENDOTA WATER AUTHORITY

1018 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and  
1019 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis  
1020 and Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement  
1021 (8-07-20-X0354) between the United States and Operating Non-Federal Entity San Luis and Delta-  
1022 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or  
1023 obligations of the Contractor or the United States hereunder.

1024 (b) The Contracting Officer has previously notified the Contractor in writing that  
1025 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to  
1026 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, and therefore, the  
1027 Contractor shall pay directly to Operating Non-Federal Entity San Luis and Delta-Mendota Water  
1028 Authority, or to any successor approved by the Contracting Officer under the terms and conditions of  
1029 the separate agreement between the United States and Operating Non-Federal Entity San Luis and  
1030 Delta-Mendota Water Authority, described in subdivision (a) of this Article, all rates, charges, or  
1031 assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal  
1032 Entity San Luis and Delta-Mendota Water Authority, or such successor determines, sets, or  
1033 establishes for the O&M of the portion of the Project facilities operated and maintained by Operating  
1034 Non-Federal Entity San Luis and Delta-Mendota Water Authority, or such successor. Such direct

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1035 payments to Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or such  
1036 successor shall not relieve the Contractor of its obligation to pay directly to the United States the  
1037 Contractor's share of the Project Rates and Charges except to the extent the Operating Non-Federal  
1038 Entity collects payments on behalf of the United States in accordance with subdivision (a) of this  
1039 Article.

1040 (c) For so long as the O&M of any portion of the Project facilities serving the  
1041 Contractor is performed by Operating Non-Federal Entity San Luis and Delta-Mendota Water  
1042 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the  
1043 Rates for Water Delivered under this Contract representing the cost associated with the activity being  
performed by Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or its  
1045 successor.

1046 (d) In the event the O&M of the Project facilities operated and maintained by  
1047 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority is re-assumed by the  
1048 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,  
1049 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the  
1050 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs  
1051 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,  
1052 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and  
1053 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article 7  
1054 of this Contract.

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1055 O&M BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

1056 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor, and  
1057 responsibility for funding a portion of the costs of such O&M, have been transferred to the California  
1058 Department of Water Resources, an Operating Non-Federal Entity by a separate agreement  
1059 (14-06-200-9755) between the United States and Operating Non-Federal Entity California  
1060 Department of Water Resources. This separate agreement shall not interfere with or affect the rights  
1061 or obligations of the Contractor or the United States hereunder.

1062 (b) The Contracting Officer has previously notified the Contractor in writing that  
1063 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to  
1064 Operating Non-Federal Entity California Department of Water Resources, and the Contractor shall  
1065 pay directly to Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority, or to any  
1066 successor approved by the Contracting Officer under the terms and conditions of the separate  
1067 agreement between the United States and Operating Non-Federal Entity San Luis and Delta-Mendota  
1068 Water Authority, described in subdivision (a) of Article 28 of this Contract, all rates, charges, or  
1069 assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal  
1070 Entity California Department of Water Resources, or such successor determines, sets, or establishes  
1071 for the O&M conveyance and conveyance pumping portion of the Project facilities operated and  
1072 maintained by Operating Non-Federal Entity California Department of Water Resources, or such  
1073 successor. Such direct payments to Operating Non-Federal Entity San Luis and Delta-Mendota Water  
1074 Authority, or such successor shall not relieve the Contractor of its obligation to pay directly to the

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1075 United States the Contractor's share of the Project Rates and Charges except to the extent the  
1076 Operating Non-Federal Entity San Luis and Delta-Mendota Water Authority collects payments on  
1077 behalf of the United States in accordance with the separate agreement identified in subdivision (a) of  
1078 Article 28 of this Contract.

1079 (c) For so long as the O&M of any portion of the Project facilities serving the  
1080 Contractor is performed by Operating Non-Federal Entity California Department of Water Resources,  
1081 or any successor thereto, the Contracting Officer shall adjust those components of the Rates for Water  
1082 Delivered under this Contract representing the cost associated with the activity being performed by  
1083 Operating Non-Federal Entity California Department of Water Resources, or its successor.

1084 (d) In the event the O&M of the Project facilities operated and maintained by  
1085 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the  
1086 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,  
1087 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the  
1088 Rates and Charges, to be paid by the Contractor for Project Water under this Contract representing the  
1089 O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor  
1090 shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary,  
1091 pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States in  
1092 compliance with Article 7 of this Contract.

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1093 O&M BY THE CONTRACTOR

1094 28.2 (a) During the term of this Contract, the Contractor shall act as the Operating  
1095 Non-Federal Entity for a portion of the Project facilities which serves the Department of Fish and  
1096 Game, the City of Huron, and the City of Coalinga, including but not limited to the Coalinga Canal  
1097 System, which consists in part of the Coalinga Canal and turnouts and Pleasant Valley Pumping  
1098 Plant. The Contractor, without expense to the United States, shall care for, operate, and maintain  
1099 such portion of the Project facilities for the furnishing of water to the Department of Fish and Game,  
1100 the City of Huron, and the City of Coalinga in full compliance with Federal Reclamation law and in  
1101 such manner that they will remain in good and efficient condition; Provided, That the United States  
1102 shall finance the costs of all major replacements of such facilities that the Contracting Officer  
1103 determines are needed; Provided further, That if the Department of Fish and Game, the City of Huron,  
1104 or the City of Coalinga fails to pay to the Contractor in advance such entity's share of the O&M costs,  
1105 consistent with any agreements between the Contractor and the Department of Fish and Game, the  
1106 City of Huron, or the City of Coalinga, respectively, the Contractor shall be relieved of its obligation  
1107 to the O&M of such facilities for the benefit of the non-paying entity.

1108 (b) The Contracting Officer previously notified the Department of Fish and Game,  
1109 the City of Huron, and the City of Coalinga in writing that the O&M of a portion of the Project  
1110 facilities which serves the Department of Fish and Game, the City of Huron, and the City of Coalinga  
1111 has been transferred to the Contractor. Therefore, the Department of Fish and Game and the City of  
1112 Huron have entered, and the City of Coalinga is expected to enter, separate agreements with the



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1113 Contractor providing the terms and conditions pursuant to which the Contractor will operate and  
1114 maintain a portion of the Project facilities which serves the Department of Fish and Game, the City of  
1115 Huron, and the City of Coalinga, including the amount(s) the Department of Fish and Game, the City  
1116 of Huron, and the City of Coalinga are to pay the Contractor for that service. Consistent with any  
1117 such agreements, the Department of Fish and Game, the City of Huron, and the City of Coalinga shall  
1118 pay directly to the Contractor all rates, charges, or assessments of any kind, including any assessment  
1119 for reserve funds, which the Contractor sets, or establishes for a portion of the Project facilities which  
1120 serves the Department of Fish and Game, the City of Huron, and the City of Coalinga and is operated  
1121 and maintained by the Contractor. Such direct payments to the Contractor shall not relieve the  
Contractor of its obligation to pay directly to the United States the Department of Fish and Game, the  
1123 City of Huron, and the City of Coalinga its share of the Project Rates and Charges referred to in this  
1124 Contract.

1125 (c) For so long as the O&M for a portion of the Project facilities which serves the  
1126 Department of Fish and Game, the City of Huron, and the City of Coalinga is performed by the  
1127 Contractor, the Contracting Officer shall adjust those components of the Rates for Water Delivered  
1128 under the Contracts representing the cost associated with the activity being performed by the  
1129 Contractor.

1130 (d) The United States may re-assume O&M for a portion of the Project facilities  
1131 which serves the Department of Fish and Game, the City of Huron, and the City of Coalinga. In that  
1132 event, the Contracting Officer shall so notify the Department of Fish and Game, the City of Huron,

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1133 and the City of Coalinga, in writing, and present to the Contractor a revised Exhibit "B" which shall  
1134 include the portion of the Rates and Charges to be paid by the Department of Fish and Game, the City  
1135 of Huron, and the City of Coalinga for Project Water under this Contract representing the O&M costs  
1136 for a portion of the Project facilities which serves the Department of Fish and Game, the City of  
1137 Huron, and the City of Coalinga. The Department of Fish and Game, the City of Huron, and the City  
1138 of Coalinga shall, thereafter, in the absence of written notification from the Contracting Officer to the  
1139 contrary, pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States  
1140 in compliance with Article 7 of their contracts. The Contractor shall, thereafter, be relieved of all of  
1141 its obligations under this Article 28.2.

1142 PUMPING PLANTS, POWER FOR PUMPING PLANTS, AND TRANSFER  
1143 OF O&M TO THE CONTRACTOR

1144 28.3. (a) The United States shall furnish and install pumping plants and furnish the  
1145 amount of Project power the Contracting Officer determines is necessary to deliver Project Water to  
1146 the Contractor from the Delta-Mendota, San Luis, and Coalinga Canals, including the Pleasant Valley  
1147 Pumping Plant, at the point(s) of delivery identified pursuant to subdivision (a) of Article 5 of this  
1148 Contract at heads and elevations sufficient to irrigate by gravity the areas within the Contractor's  
1149 Service Area below 700 feet mean sea level elevation.

1150 (b) With advance approval of the Contracting Officer, the Contractor may, at its  
1151 own expense, furnish and install pumping facilities, and related electrical equipment, to enable it to  
1152 divert and deliver Project Water from the Delta-Mendota, San Luis, and Coalinga Canals and the  
1153 Pleasant Valley Pumping Plant before the United States furnishes and installs all the pumping plants

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1154 referred to in subdivision (a) of this Article. The United States shall furnish the amount of Project  
1155 power needed to operate such pumping facilities; Provided, That the Contractor maintains an  
1156 agreement with an entity to convey such power to such facilities, and the Contractor agrees to pay any  
1157 and all charges assessed by that entity for such service.

1158 (c) The furnishing of power by the United States shall be in conformance with  
1159 operating criteria, rules, and regulations, including the project use power policy, established by the  
1160 Contracting Officer; Provided, That any such operating criteria, rules, and regulations, including the  
1161 project use power policy, established by the Contracting Officer shall not excuse the United States  
1162 from its obligation under subdivision (a) of this Article. Such operating criteria, rules, and  
regulations shall be developed in cooperation with the Contractor and shall be based on acceptable  
1164 irrigation management practices and the power generation capacity available to the United States for  
1165 the furnishing of Project Water to the Contractor.

1166 (d) The Contractor hereby agrees to operate and maintain, at its own expense, all  
1167 of the pumping facilities described in subdivisions (a) and (b) of this Article in such a manner that  
1168 remain in good and efficient condition; Provided, That the United States shall finance the costs of all  
1169 major replacements that the Contracting Officer determines are needed.

1170 (e) The Contracting Officer or his representative shall at all times have access to  
1171 and may inspect and investigate the pumping facilities for the purpose of ascertaining if they are  
1172 being kept in safe and proper operating condition.

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1173                   (f)     No change in any of the pumping facilities, which in the opinion of the  
1174 Contracting Officer is substantial, shall be made by the Contractor without first obtaining the written  
1175 consent of the Contracting Officer. The Contractor shall promptly make any and all repairs and  
1176 replacements to the pumping facilities which in the opinion of the Contracting Officer are necessary.  
1177 In the event the Contractor neglects or fails to make such repairs and replacements or in the event of  
1178 operation by the United States of the pumping facilities pursuant to subdivision (g) of this Article, the  
1179 United States may cause the repairs and replacements to be made and the cost thereof, as determined  
1180 by the Contracting Officer, shall be paid by the Contractor to the United States upon notice of the  
1181 payment due but not later than April 1 of the year following that during which such work was  
1182 completed.

1183                   (g)     In the event the Contracting Officer determines that the Contractor has not  
1184 properly cared for, operated, and maintained said pumping facilities or has failed to comply with any  
1185 of the provisions of this Article, then at the election of the Contracting Officer the United States may  
1186 take over from the Contractor the care and O&M of the pumping facilities by giving written notice to  
1187 the Contractor of such election and the effective date thereof. Thereafter, during the period of  
1188 operation by the United States, the Contractor shall pay to the United States in advance of the use of  
1189 such pumping facilities the Contractor's share of the cost of O&M thereof and replacements  
1190 therefore, as fixed in notices from the Contracting Officer. In the event such advances are inadequate  
1191 to properly care for, operate, and maintain the pumping facilities to the end of any year, the  
1192 Contracting Officer may give written notice of a supplemental O&M charge and the Contractor shall

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1193 pay such amount on or before the date specified in said notice. Any amount of such advances  
1194 remaining unexpended or unobligated, at the option of the Contractor, either shall be refunded or  
1195 credited upon amounts to become due to the United States from the Contractor under the provisions  
1196 of this Contract in subsequent years. The pumping facilities so taken back by the United States may  
1197 be returned to the Contractor upon the furnishing to the Contractor of a written 90-day notice of  
1198 intention to retransfer.

1199 (h) The Contractor shall hold the United States, its officers, and employees  
1200 harmless from every and all claim for damages to persons or property arising out of or connected with  
1201 the Contractor's O&M of the pumping facilities referred to in this Article; Provided, That nothing  
1202 contained herein shall be construed as an assumption of liability by the Contractor to parties other  
1203 than the United States with respect to such matters.

1204 (i) During the time the pumping facilities are operated and maintained by the  
1205 Contractor, in addition to all other payments to be made by the Contractor under this Contract, the  
1206 Contractor shall pay to the United States pursuant to Article 25 hereof, costs incurred by the  
1207 United States for work associated with the pumping facilities under this Contract normally charged by  
1208 the United States to water users and properly and equitably chargeable to the Contractor.

1209 (j) The Contracting Officer may make review of any part or all of the pumping  
1210 facilities being operated by the Contractor pursuant to this Article to assist the Contractor in assessing  
1211 the condition of facilities and the adequacy of the maintenance program(s). The Contracting Officer  
1212 shall prepare reports based on the examinations, inspections or audits, and furnish copies of such

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1213 reports and any recommendations to the Contractor. The Contractor shall reimburse the actual cost  
1214 incurred by the United States in making O&M examinations, inspections, and audits, and preparing  
1215 associated reports and recommendations.

1216 (k) If deemed necessary by the Contracting Officer or requested by the Contractor,  
1217 special inspections of the pumping facilities being operated by the Contractor and of the Contractor's  
1218 books and records may be made to ascertain the extent of any O&M deficiencies, to determine the  
1219 remedial measures required for their correction, and to assist the Contractor in solving specific  
1220 problems. Any special inspection or audit shall, except in a case of emergency, be made after written  
1221 notice to the Contractor and the actual cost thereof shall be paid by the Contractor to the United  
1222 States.

1223 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1224 29. The expenditure or advance of any money or the performance of any obligation of the  
1225 United States under this Contract shall be contingent upon appropriation or allotment of funds.  
1226 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
1227 under this Contract. No liability shall accrue to the United States in case funds are not appropriated  
1228 or allotted.

1229 BOOKS, RECORDS, AND REPORTS

1230 30. (a) The Contractor shall establish and maintain accounts and other books and  
1231 records pertaining to administration of the terms and conditions of this Contract including: the  
1232 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;  
1233 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other  
1234 matters that the Contracting Officer may require. Reports thereon shall be furnished to the  
1235 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.  
1236 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right  
1237 during office hours to examine and make copies of the other party's books and records relating to  
1238 matters covered by this Contract.

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1239 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,  
1240 records, or other information shall be requested from the Contractor by the Contracting Officer unless  
1241 such books, records, or information are reasonably related to the administration or performance of  
1242 this Contract. Any such request shall allow the Contractor a reasonable period of time within which  
1243 to provide the requested books, records, or information.

1244 (c) At such time as the Contractor provides information to the Contracting Officer  
1245 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the  
1246 Operating Non-Federal Entity (ies).

1247 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1248 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1249 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1250 therein shall be valid until approved in writing by the Contracting Officer.

1251 (b) The assignment of any right or interest in this Contract by either party shall not  
1252 interfere with the rights or obligations of the other party to this Contract absent the written  
1253 concurrence of said other party.

1254 (c) The Contracting Officer shall not unreasonably condition or withhold approval  
1255 of any proposed assignment.

1256 SEVERABILITY

1257 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor  
1258 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an  
1259 association or other form of organization whose primary function is to represent parties to Project  
1260 contracts, brings an action in a court of competent jurisdiction challenging the legality or

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1261 enforceability of a provision included in this Contract and said person, entity, association, or  
1262 organization obtains a final court decision holding that such provision is legally invalid or  
1263 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the  
1264 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court  
1265 decision identify by mutual agreement the provisions in this Contract which must be revised and  
1266 (ii) within three months thereafter promptly agree on the appropriate revision(s). The time periods  
1267 specified above may be extended by mutual agreement of the parties. Pending the completion of the  
1268 actions designated above, to the extent it can do so without violating any applicable provisions of  
1269 law, the United States shall continue to make the quantities of Project Water specified in this Contract  
1270 available to the Contractor pursuant to the provisions of this Contract which were not found to be  
1271 legally invalid or unenforceable in the final court decision.

#### 1272 RESOLUTION OF DISPUTES

1273 33. Should any dispute arise concerning any provisions of this Contract, or the parties'  
1274 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the  
1275 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring  
1276 any matter to the Department of Justice, the party shall provide to the other party 30 days' written  
1277 notice of the intent to take such action; Provided, That such notice shall not be required where a delay  
1278 in commencing an action would prejudice the interests of the party that intends to file suit. During  
1279 the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in an



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1280 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or  
1281 abridge any right or remedy that the Contractor or the United States may have.

1282 OFFICIALS NOT TO BENEFIT

1283 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1284 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1285 manner as other water users or landowners.

1286 CHANGES IN CONTRACTOR'S SERVICE AREA

1287 35. (a) While this Contract is in effect, no change may be made in the Contractor's  
1288 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,  
1289 except upon the Contracting Officer's written consent.

1290 (b) Within 30 days of receipt of a request for such a change, the Contracting  
Officer will notify the Contractor of any additional information required by the Contracting Officer  
1292 for processing said request, and both parties will meet to establish a mutually agreeable schedule for  
1293 timely completion of the process. Such process will analyze whether the proposed change is likely to:  
1294 (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the  
1295 Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-  
1296 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project  
1297 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with  
1298 the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the Contracting  
1299 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1300 FEDERAL LAWS

1301 36. By entering into this Contract, the Contractor does not waive its rights to contest the  
1 validity or application in connection with the performance of the terms and conditions of this

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1303 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the  
1304 terms and conditions of this Contract unless and until relief from application of such Federal law or  
1305 regulation to the implementing provision of the Contract is granted by a court of competent  
1306 jurisdiction.

1307 NOTICES

1308 37. Any notice, demand, or request authorized or required by this Contract shall be  
1309 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered  
1310 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721,  
1311 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of  
1312 Directors of the Westlands Water District, P.O. Box 6056, Fresno, California 93703-6056. The  
1313 designation of the addressee or the address may be changed by notice given in the same manner as  
1314 provided in this Article for other notices.

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1315 IN WITNESS WHEREOF, the parties hereto have executed this Interim Renewal Contract as  
1316 of the day and year first above written.

1317  
1318

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY

*Almonston B. Sig*

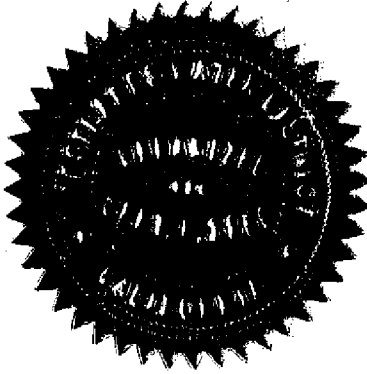
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

THE UNITED STATES OF AMERICA

1319  
1320  
1321

By: *John F. Davis*  
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

1322



1323

WESTLANDS WATER DISTRICT \_\_\_\_\_

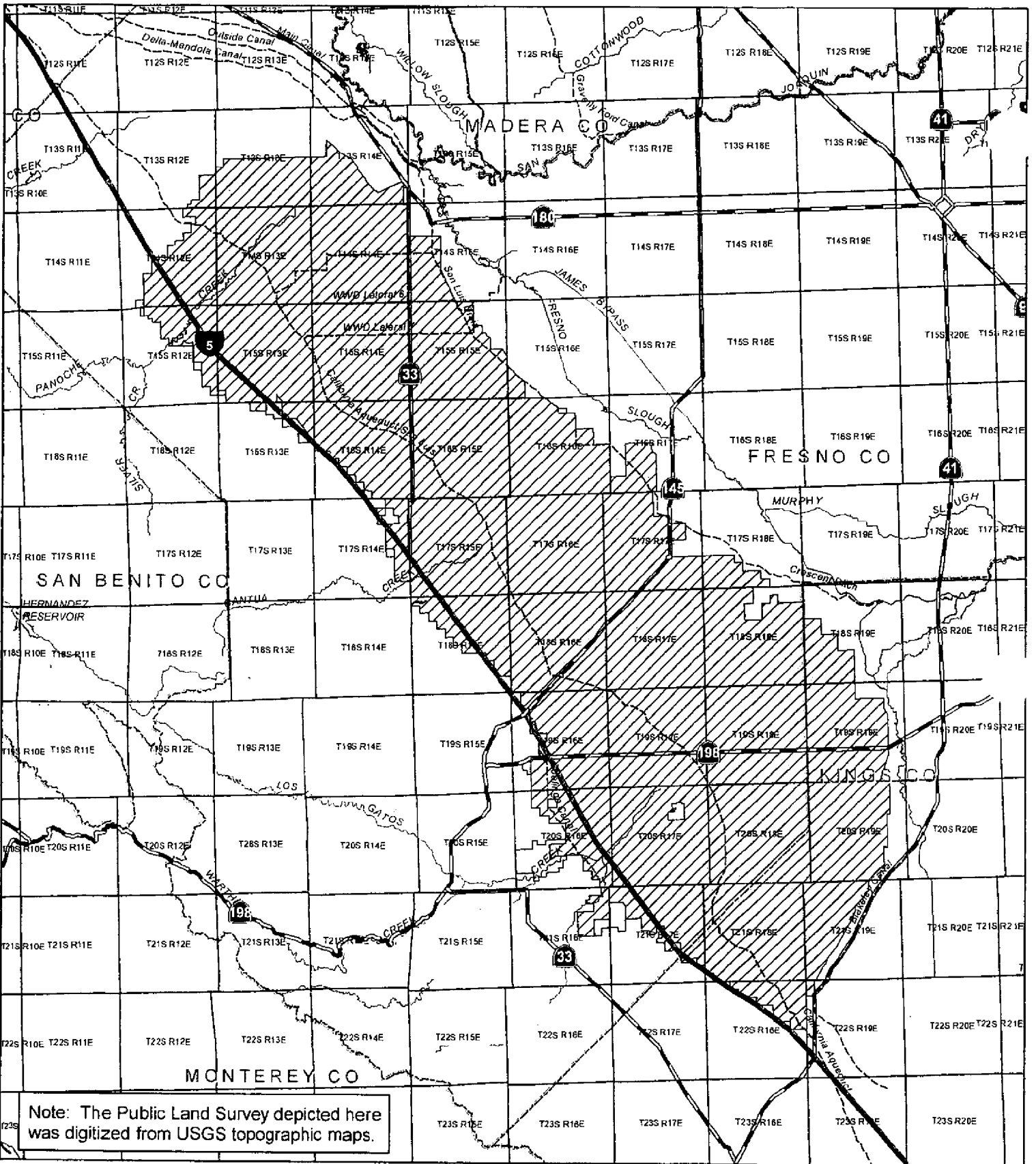
1324  
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By: *Frank [unclear]*  
President of the Board of Directors

1326 Attest:

1327  
1328



By: *Wm. [unclear]*  
Secretary of the Board of Directors



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

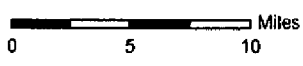
# Westlands Water District

Contract No. 14-06-200-495A-LTR1  
Exhibit A

-  Contractor's Service Area
-  District Boundary



Date: October 18, 2004  
File Name: N:\districts\contracts\westlands\westlands.mxd



805-202-7

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EXHIBIT B  
 WESTLANDS WATER DISTRICT  
 Contract Year 2007

	Irrigation SLC	Irrigation DMC	M&I Water
<b>Operation and Maintenance (O&amp;M) and Cost-of-Service Rates:</b>			
Capital Rates	\$18.23	\$15.80	\$8.99
O&M Rates			
Water Marketing	\$6.86	\$6.86	\$5.76
Storage	\$7.68	\$7.68	\$9.16
Conveyance	*	*	*
Direct Pumping (Project Use Energy)	\$2.21		\$2.02
Tracy Pumping	*	*	*
San Luis Drain	\$0.24		
CFO/PFR Adj. Rate**	\$0.00	\$0.00	\$0.00
Deficit Rates			
Non-Interest Bearing	\$0	\$0	\$0
Interest Bearing	\$0	\$0	\$0
<b>TOTAL COST-OF-SERVICE RATES (COS):</b>	<b>\$35.22</b>	<b>\$30.34</b>	<b>\$25.93</b>
<b>Irrigation Full Cost Rates</b>			
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$56.03	\$44.98	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$70.40	\$57.75	
<b>Surcharges Under P.L. 102-575 To Restoration Fund***</b>			
	\$8.58	\$8.58	\$17.15
<b>P.L. 106-377 Trinity Public Utilities District Assessment ****</b>			
	\$0.11	\$0.11	\$0.11

\*Except for Folsom-South Canal, Conveyance Operation and Maintenance Costs were removed for ratesetting purposes and are to be billed directly to the water authorities (See Schedule A-9 for cost detail).

\*\* Chief Financial Officer (CFO) Adjustment and Provision for Replacement (PFR) Credit are being distributed over a 5-year period beginning in FY 2003 for the contractor that request the cost be deferred.

\*\*\*The surcharges are payments in addition to the water rates and were determined pursuant to Title XXXIV c Public Law 102-575. Restoration fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1-9/30).

\* The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/07-2/29/08. The Trinity Public Utilities District Assessment is adjusted annually.

Additional detail of rate components is available on the Internet at [www.mp.usbr.gov/cvpwaterrates/](http://www.mp.usbr.gov/cvpwaterrates/).

## Exhibit C

**Central Valley Project (CVP) Water Needs Assessments Purpose and Methodology****Purpose:**

Water needs assessments have been performed for each CVP water contractor eligible to participate in the CVP long-term contract renewal process. These water needs assessments serve three purposes:

- Confirm past beneficial use of CVP water;
- Provide water demand and supply information under current and future conditions for the environmental documents; and
- Provide an estimate of contractor-specific needs for CVP water by the year 2025 to serve as a starting point for discussions regarding contract quantities in the negotiation process.

These three purposes require that the water needs assessments be done for a number of different timeframes.

**Small Contractors exempt from Detailed Water Needs Assessments:**

In order to minimize the informational burdens on CVP water contractors with small amounts of CVP supply under contract, an exemption from the requirement for detailed water needs assessments has been provided to these contractors. The exemption applies to contractors who provide agricultural water to a service area of 2000 irrigable acres, or less, and/or provide urban water now, or in the future, in the amount of 2000 acre-feet annually, or less. A contractor may be exempt from the water needs assessment requirement for its urban water service, but not for its agricultural water service, or vice-a-versa. These contractors are assumed to demonstrate future need if they have beneficially used their CVP supplies in the past.

**Past Beneficial Use:**

Originally, Reclamation requested water demand and supply information for the 1979 through 1997 timeframe. Reclamation believes that evaluations of beneficial use, current and future CVP needs based on information for a 19-year period of record, including both wet and dry periods, is a scientifically defensible way of conducting water needs assessments. However, the concerns of the CVP water contractors with respect to the magnitude of the information request persuaded Reclamation to perform the assessments using a representative snapshot year approach, instead. Although less scientifically rigorous, the snapshot year approach appears adequate for cursory evaluations of water needs.

Nineteen Eighty Nine, is the snapshot year chosen to confirm past beneficial use of CVP water for the American, Delta, Contra Costa, Sacramento, and San Felipe regions (refer to the definitions on the next page). This year was chosen because most CVP water contractors received full delivery of their requested water supplies and the total annual precipitation for most CVP regions was in the normal range. Since 1989 was a drought

year in the Friant region, 1996 was the snapshot year selected to calculate past beneficial use for this region. Water Need Assessments for the Stanislaus Region have been deferred pending the resolution of operational issues in the Stanislaus River basin. Some contractors have elected to deviate from the selected snapshot year because of the unavailability of information for that year. Following is a description of the regions:

<b>American:</b>	American River Division
<b>Delta:</b>	Delta Division combined with West San Joaquin Division, but not the Contra Costa Unit
<b>Contra Costa:</b>	Contra Costa Unit
<b>Stanislaus:</b>	East Side Division
<b>Friant:</b>	Friant Division combined with Hidden Unit, Buchanan Unit, and Cross Valley Canal
<b>Sacramento:</b>	Sacramento River Division combined with Trinity River and Shasta Divisions
<b>San Felipe:</b>	San Felipe Division

The environmental documentation associated with the CVP long-term contract renewals specifies 1995 as the base year. Therefore, water supply and demand information is indicated on the water needs assessments for the 1995 level of development, if available. In many cases, the information provided to demonstrate past beneficial use is also reasonably representative of 1995 level water supplies and demands.

#### **Definition of Need for CVP Water Supplies:**

An important function of these assessments is the estimation of year 2025 CVP water needs. The assessments compare all demands and all supplies (including CVP supplies) estimated for the 2025 level of development for a normal hydrologic year. Demands include agricultural, urban and, on occasion, environmental water demands. For these assessments, current CVP contract supplies are set as the maximum annual contractual amount for each water contractor, except in the Friant Division. The Friant Division's Class II contract amounts are based on wet hydrologic year and were reduced to 40% of the contract amount to reflect normal year hydrology. The results are displayed in Column 39 as Unmet Demand. If the number in this column is positive or only slightly negative <sup>1</sup> then the CVP water contractor is deemed to have full future need of the maximum annual CVP supply currently under contract for all year types. Dry year and critically dry year analyses were only performed for urban contractors who did not demonstrate full future need of their CVP contract supply in a normal hydrologic year.

The methodology used to estimate agricultural and urban water demands as well as to estimate the availability of non-CVP supplies is described in the following sections.

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<sup>1</sup> If the negative amount is within 10% for contracts in excess of 15,000 acre-feet, or within 25% for contracts equal to, or less than, 15,000 acre-feet; the test of full future need of CVP supplies under contract is deemed to be met.

**Agricultural Water Demand:**

Agricultural water demand is defined as the sum of the district’s irrigation water demand and the intra-district conveyance losses, where irrigation water demand is the product of the irrigated acreage in a district and the average farm delivery requirement. The farm delivery requirement is defined as the unit amount of water necessary to supply crop water needs in excess of effective precipitation and varies based on crop type, climate, irrigation water quality, soil salinity and irrigation method. The district’s irrigation water demand is not necessarily the sum of all the on-farm irrigation water demands because such measures as recycling of intra-district return flows are effective in reducing the overall district irrigation water demand. The assumption for this analysis is that the continued implementation of water use efficiency measures between now and the year 2025 will further reduce the unit amount of water needed to grow crops in the future. Often, it is also assumed that district conveyance losses will decrease in the future. Specifically, district irrigation efficiencies are assumed to increase from an average of 75 percent currently to 85 percent by the year 2025, where district irrigation efficiency is defined as follows:

$$\text{District Irrigation Efficiency} = \frac{\text{Supply B Non Recoverable Losses to the District}}{\text{Supply}}$$

or

$$= \frac{\text{District’s Crop Water Requirement of Applied Water (ETAW) + Recoverable losses within the District}^2}{\text{District’s Irrigation Water Demand}}$$

District’s Irrigation Water Demand

Certain districts, such as those with large elevation differences within their boundaries, have target district irrigation efficiencies of 80 percent.

Estimating Crop Water Requirements

Generally, the CVP water contractors’ Water Management Plans provide historical information on crop water requirements. This information was used in the snapshot year analyses to confirm past beneficial use of CVP supplies and to reflect the base condition in the environmental documents.

Reclamation estimated crop water requirements for the year 2025 level of development based on the CVP water contractors’ estimates of future crops and acreage planted multiplied by estimates of the farm delivery requirements for each crop. Reclamation staff initially estimated crop water requirements for all regions using evapotranspiration (ET) and effective precipitation (EP) data from several sources: 1) California Department of Water Resources (DWR) Bulletin 160-98, 2) DWR Bulletin 113-3, and 3) Reclamation knowledge and experience. The ET and EP information was tabulated on a Detailed Analysis Unit (DAU) basis and then proportioned to each district based on the district’s area in a DAU. The data was then used in combination with other traditional

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<sup>2</sup> Recoverable loss is defined as water recovered or recoverable by the district or irrigators for reuse.



methodologies for determining crop water requirements to estimate each district's total irrigation water demand in the year 2025.

In February 2000, representatives of the Friant and Delta Region CVP water contractors expressed the following concerns with using this methodology:

The crop water requirements estimated are too low;

The effective precipitation component to meeting crop water requirements is too high for some areas.

In order to address these concerns a number of evaluations were performed.

One analysis compared the agricultural water demand calculations performed by the districts' private consultant and those performed by Reclamation for the water districts in the Delta Region. This analysis indicated that Reclamation's and the consultant's estimation of these water demands on a regional basis is close (within 8%). However, the results of the agricultural water demand determinations diverge as the regional area is broken into sub-regions and especially when the comparison is made at the district level.

A comparison of calculations of ET and EP for alfalfa in the Friant Region using the methodologies of Bulletin 160-98, Reclamation and the Natural Resources Conservation Service (NRCS) indicates that Bulletin 160-98 consistently estimates EP higher than the other two methods at the district level. One reason for this difference appears to be that the Bulletin 160-98 methodology estimates the contribution of rainfall to the soil moisture profile in the non-irrigation season in a different way than the other two methodologies. Similarly, a comparison of ET values shows that the Bulletin 160-98 values are consistently lower than the NRCS values at the district level. This difference is most likely the result of Bulletin 160-98's use of Aactual@ ET values. Aactual@ ET is potential ET modified to reflect regional agricultural practices by farmers. The NRCS method uses potential ET values without modification.

Based on discussions with DWR, the affected CVP water contractors and their consultants; Reclamation concluded that the regional agricultural practices taken into account by Bulletin 160-98 may not be reflective of current and/or future practices by the CVP water contractors. For this reason, Reclamation determined that it was more prudent to use potential ET values than the Aactual@ ET values from Bulletin 160-98 in evaluating 2025 crop water requirements for water districts located in the Friant and Delta Regions.

In addition, Reclamation and representatives of the Friant and Delta Region water contractors agreed on a different methodology to estimate EP than the one used in Bulletin 160-98 because of the lack of dependable rainfall. The bulletin assumes rainfall is effective if it can be stored in the soil moisture profile, or directly meet crop water needs during any month. However, in actual practice to effectively manage farm operations, a farmer may need to pre-irrigate one or more fields earlier in the month only to have a major precipitation later in the month, thus reducing the effectiveness of the

rainfall during that month.

**Revised Agricultural Water Demand Methodology for the Friant and Delta Regions:**

Following is a description of the revised methodology for estimating ET and EP:

EP is estimated to be 50 percent of long-term average annual rainfall with the exception of citrus EP. For citrus groves, it is estimated that one inch of the initial rainfall is stored before the soil seals over and the runoff begins; then about 10% of the additional rainfall for the season is estimated to be effective.

ET is determined using California Irrigation Management Information System (CIMIS) potential ET data and crop coefficients supplied by the University of California Cooperative Extension.

No change was made to the ET and EP determinations for the CVP water contractors in the other regions because these regions are located in areas of higher precipitation not as sensitive to the issues raised in the comparative analyses.

**Urban Water Demand:**

Urban water demand is defined as the sum of residential, nonresidential and distribution system demands. The components of residential demand include indoor and outdoor demand. Originally, information on residential and a portion of nonresidential demand was requested in terms of these two components; however, most CVP water contractors were unable to provide the information in that format. Therefore, the information request was revised to a combined figure for indoor and outdoor use. Nonresidential demand includes commercial, institutional and industrial demands. Distribution system demands consist of unaccounted beneficial use and distribution system losses where:

Unaccounted beneficial use includes water for such uses as fire fighting, mainline flushing, storm drain flushing, sewer and street cleaning, construction site use, water quality testing and other testing.

Distribution system losses accounts for water lost because of leaks in storage and distribution systems, evaporation, illegal connections, and water theft.

Projected M&I water demand will be influenced over time by many factors, including future land use changes, population shifts, and improvements in residential and distribution system efficiencies over time. As is the case for agricultural water demands, the methodology assumes that the implementation of water conservation measures in the next 25 years will increase the efficiency of urban water use and reduce unit M&I water demands. Specifically, the average per capita usage is assumed to decrease from 5% to 14% depending on the location in the state.

### **Non-CVP Water Supplies:**

Non-CVP water supplies can include groundwater including the conjunctive use of surface and groundwater, State Water Project (SWP) supplies, local surface water supplies, recycled water, inter-district return flows and water transfers. The methodology considers water transfers a beneficial use of water. Water transfers are, therefore, included in the 2025 level assessments if there is evidence of a commitment by both parties to engage in the transfer in this timeframe.

Average values for SWP and local surface supplies are used in the 2025 level assessments unless the analysis is for dry or critical year conditions. Often the source of information is the 10-year average surface water supply from the contractor's Water Management Plan. If there is an indication that surface water supplies will decrease in the future because of increased upstream diversions or increased environmental requirements, the surface water supply is reduced to reflect these considerations in the 2025 level assessment.

Where available, groundwater safe yields are used to estimate future groundwater pumping. Safe yield is defined as the amount of groundwater a district can pump on a long-term average and not cause the long-term decline of groundwater levels leading to excessive depths for pumping or leading to degradation of groundwater quality. A safe yield value is the result of a complex interaction between many factors; a change in any one of the factors can have an impact on the value obtained from safe yield computations. The main factors involved in safe yield computations can include, but are not limited to, water supply, consumptive use, losses to the system, and water quality. Adding to the complexity of the analysis is that many, if not most, of the factors involved in a safe yield computation are time dependent, and have both short-term and long-term trends--which may be quite different. If a safe yield analysis is not available for the contractors' groundwater resources, groundwater pumping and recharge, if applicable, is estimated from historical information for the 2025 level assessments.

Originally, groundwater pumping for the Friant Region was estimated based on historical estimates of groundwater pumping for 1996 from the water contractors' Water Management Plans. During the February 2000 discussions with representatives of the Friant Region water contractors, the issue of groundwater was raised. Specifically, Reclamation was requested to evaluate the possibility of using the original safe yields estimated by Reclamation as the supply available from groundwater in the 2025 level assessments. Reclamation agreed to investigate the use of these original safe yields because the original safe yields were developed for ultimate buildout and included CVP groundwater recharge. Following is a summary of the analysis performed to estimate groundwater pumping for the Friant Region in the 2025 level assessments:

### **Analysis of Groundwater Pumping in the Friant Region:**

Groundwater technical studies were conducted by Reclamation in the 1940's and 1950's to characterize the geohydrology, groundwater occurrence and groundwater conditions in

each district, and to determine each district's safe yield. Prior to the delivery of CVP water supplies, farmers irrigated mainly with groundwater, although some local surface water sources were also used. Because recharge of groundwater could not keep pace with the use of water primarily for agricultural purposes, groundwater levels had declined in many areas, and groundwater overdraft was common throughout the region.

A review of Reclamation's original safe yields for the Friant Region shows that these safe yield estimates are generally less than the estimated amounts of groundwater pumping for 1996. Reclamation's original safe yield estimates are also generally less than the updated safe yield estimates performed by Reclamation for some of the districts in the early 1990's. However, the 1990's safe yield estimates are considered preliminary numbers and were never adopted by Reclamation nor accepted by the Friant water contractors. Historical estimates of groundwater pumping indicate that these water contractors are pumping groundwater in excess of the original safe yields.

The groundwater pumping in excess of safe yield has resulted in the continued decline in the groundwater tables underlying most of the districts. A review of hundreds of individual well hydrographs shows that this increase in pumping has not been supported by the aquifer. Most districts are still experiencing declining groundwater levels since the inception of CVP deliveries. With the exception of five districts (Delano Earlimart, Exeter, Lindmore, Lindsay-Strathmore and Orange Cove), cumulative groundwater storage has decreased in the remaining 19 Friant districts since the CVP began importing water into those districts. The five districts that show overall rises in groundwater storage change have unique geohydrologic conditions and were evaluated individually to determine appropriate levels of groundwater pumping for the 2025 level assessments. From the analysis performed, it can be concluded that CVP deliveries since 1986, as evidenced by a continuous decline in storage from 1986 to 1992, have not been sufficient to maintain reasonably stable groundwater levels, nor have CVP deliveries supported an increase in groundwater levels in wet years under the conjunctive use operations practiced by most districts. Safe yield pumping in combination with surface water supplies should have sustained or raised groundwater levels to some stable level. However, historical groundwater pumping has been higher than the safe yield values. In addition, unforeseen factors in the original safe yield analysis such as the magnitude of groundwater use by non-district entities primarily for urban needs within the boundaries of the district, the magnitude of groundwater and surface water use by adjacent districts, changes in the type of crops, droughts and reductions in CVP water deliveries may render even the original safe yield values as too high. However, the unavailability of critical information and the lack of time to perform an analysis make the determination of new safe yields for the Friant Region infeasible at this time. Therefore, Reclamation concurs that the original safe yields are appropriate to depict groundwater pumping in the 2025 level assessments for the Friant Region.

### **Sources of Information**

The Water Management Plans that most water districts have prepared in response to the mandates of the Central Valley Project Improvement Act and the Reclamation Reform

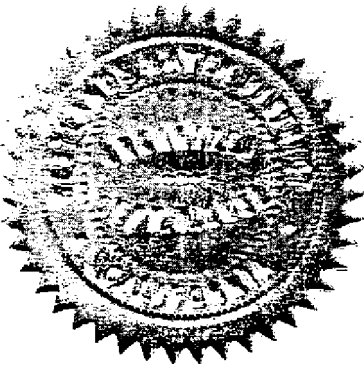
Act provide information on agricultural, urban and environmental water demands as well as on water supplies available to meet these demands. In most cases, these plans depict information for a representative year, although some plans provide a number of years of historical information as well as projections for the future. Fortunately, the representative year for many of these plans is either 1989, or 1996. The water contractors were asked to verify that information contained in these plans may be used to calculate past beneficial use and/or to depict current conditions for the purposes of the environmental documentation. In addition, the agricultural water contractors were requested to provide projections of types of crops planted, irrigated acres and amounts and types of non-CVP water supplies for the year 2025. Similarly, the urban water contractors were asked to provide population projections, projections of nonresidential water demand and amounts and types of non-CVP water supplies for the year 2025.

Other sources of information included DWR Bulletin 160-98, DWR Bulletin 113-3, CIMIS information, crop coefficients from various sources, Reclamation's annual crop reports, the January 2000 Water Forum Agreements for the American River, Reclamation's groundwater safe yield studies and miscellaneous planning and environmental documents.

STATE OF CALIFORNIA        )  
  )ss  
COUNTY OF FRESNO        )

I, Dave Ciapponi, do hereby certify that I am the duly appointed, qualified and acting Secretary of Westlands Water District, a public district organized under the laws of the State of California with its offices at Fresno, California; that Resolution No. 120-07 was duly and regularly adopted by the Board of Directors of Westlands Water District at a meeting of said Board of Directors duly called and held on the 17<sup>th</sup> of December, 2007, at the offices of said Westlands Water District at which a quorum of said Directors was present and acting; and that said Resolution is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and seal as Secretary of said District this 21<sup>st</sup> day of December, 2007.



*Dave Ciapponi*  
\_\_\_\_\_  
Secretary  
Westlands Water District

**RESOLUTION NO. 120-07****WESTLANDS WATER DISTRICT****A RESOLUTION OF THE BOARD OF DIRECTORS  
APPROVING THE FORM OF THE INTERIM RENEWAL CONTRACT  
BETWEEN THE UNITED STATES OF AMERICA AND WESTLANDS WATER  
DISTRICT PROVIDING FOR PROJECT WATER SERVICE, AND AUTHORIZING  
EXECUTION THEREOF**

WHEREAS, Westlands Water District (District) entered into a contract for water service with the United States on June 5, 1963, Contract No. 14-06-200-495-A (1963 Contract), which provides for the delivery of up to 1,008,000 acre feet of water diverted through Central Valley Project facilities, the right to which was confirmed under paragraph 4 of the *Barcellos* Judgment and in other contracts between the District and the United States; and

WHEREAS, on June 29, 1965, the Legislature of the State of California enacted the Westlands Water District Merger Law, California Water Code sections 37800, *et seq.*, which merged the West Plains Water Storage District into the District; and

WHEREAS, after the merger of West Plains Water Storage District into the District, the District entered into a contract for water service with the United States on December 30, 1986, Contract No. 79-106-EDP (1986 Contract), which provides for the delivery of up to an additional 250,000 acre-feet of water diverted through Central Valley Project facilities, the right to which was confirmed under paragraph 5 of the *Barcellos* Judgment and in other contracts between the District and the United States; and

WHEREAS, on September 30, 1997, the District and the United States entered into the Binding Agreement for Early Renewal Between the United States and Westlands Water District, Binding Agreement No. 14-06-200-495A-BA, and the Binding Agreement for Early Renewal Between the United States and Westlands Water District, Binding Agreement No. CV-79-106-EDP-BA, which provide the terms for the renewal of both the 1963 Contract and the 1986 Contract before their expiration dates; and

WHEREAS, the District and the United States have entered into negotiations to renew the 1963 Contract and the 1986 Contract, and both the District and the United States have expressed the intent to enter into a long-term renewal contract under mutually agreed upon terms and conditions obligating the United States to furnish the District up to 1,150,000 acre-feet of Central Valley Project water per year; and

WHEREAS, the environmental documentation required under Federal Law for execution of any long-term renewal contract has been delayed for reasons beyond the control of the parties; and





WHEREAS, it is anticipated prior to December 31, 2007, that the United States will tender a form of an interim renewal contract to the District, Interim Contract No. 14-06-200-495A-IR1 (Interim Renewal Contract), which provides for the delivery of up to 1,150,000 acre-feet of water diverted through Central Valley Project facilities; and

WHEREAS, it is imperative to the District and its landowners that the District renew its rights under the 1963 Contract and the 1986 Contract to continue water service to lands within the District for beneficial use, and the District therefore proposes to enter into the Interim Renewal Contract; and

WHEREAS, the District has reviewed the terms and conditions of the form of the Interim Renewal Contract and finds the form and content thereof to be acceptable to the District and appropriate for execution; and

WHEREAS, on October 23, 2007 the District Board adopted Resolution No. 116-07, a resolution of the Board of Directors approving the filing of a statutory categorical exemption under the California Environmental Quality Act for approval of the interim renewal contract between the United States of America and Westlands Water District providing for water service, which categorical exemption was filed on November 1, 2007.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED as follows:

1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board so finds and determines.
2. The Interim Renewal Contract in substantially the form presented to the Board and on file with the Secretary is hereby approved.
3. The President of the District is hereby authorized to execute the Interim Renewal Contract with such additional changes and/or modifications as are approved by the President of the District and its legal counsel.
4. A certified copy of this resolution shall be prepared and transmitted by the District's Secretary to the Bureau of Reclamation.
5. The District's officers and staff are authorized and directed to do all things necessary and appropriate to carry out the foregoing and to take such additional actions as may be necessary or convenient to carry out the intent of this Resolution.

Adopted at a regular meeting of the Board of Directors in Fresno, California, this 17th day of December, 2007.



AYES: Directors Coelho, Devine, Diener, Enos, Errotabere, Esajian,  
Sagouspe, Sheely, and Woolf

NOES: None

ABSENT: None

  
\_\_\_\_\_  
Dave Ciapponi, Secretary



Irrigation and M&I  
 Contract No. 14-06-200-495A-LTR1

Westlands Water District  
 Contract Year 2007  
 Exhibit B

	Irrigation SLC	Irrigation DMC	M&I Water
<b>O&amp;M AND COST-OF-SERVICE RATES:</b>			
Capital Rates	\$18.23	\$15.80	\$8.99
O&M Rates			
Water Marketing	\$6.86	\$6.86	\$5.76
Storage	\$7.68	\$7.68	\$9.16
Conveyance	*	*	*
Direct Pumping (Project Use Energy)	\$2.21		\$2.02
Tracy Pumping	*	*	*
San Luis Drain	\$0.24		
Deficit Rates			
Non-Interest Bearing	\$0	\$0	\$0
Interest Bearing	\$0	\$0	\$0
<b>TOTAL COST-OF-SERVICE RATES (COS):</b>	\$35.22	\$30.34	\$25.93
<b>M&amp;I FULL-COST RATE</b>			\$32.55
<b>Tiered Pricing Components (in addition to total COS rate above)</b>			
Tiered Pricing Component >80% <=90% of Contract Total [202 (3) Rate - COS Rate /2]:	N/A	N/A	
Tiered Pricing Component >90% of Contract Total [202 (3) Rate - COS Rate]:	N/A	N/A	
<b>Irrigation Full Cost Rates</b>			
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$56.03	\$44.98	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$70.40	\$57.75	
<b>CHARGES UNDER P.L. 102-575 TO IRRIGATION FUND**</b>			



	\$8.58	\$8.58	\$17.15
<i>AL SURCHARGES</i>	\$8.58	\$8.58	\$17.15

\*Except for Folsom-South Canal, Conveyance Operation and Maintenance Costs were removed for ratesetting purposes and are to be billed directly to the water authorities (See Schedule A-9 for cost detail).

\*\*The surcharges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1-9/30).

**Additional detail of rate components is available on the Internet at [www.mp.usbr.gov/cvpwaterrates/](http://www.mp.usbr.gov/cvpwaterrates/).**

